

## The complaint

Miss S is unhappy that Nationwide Building Society (Nationwide) won't refund the money she paid for repairs to her car. She believes she's been scammed and has lost out as a result.

## What happened

The circumstances which led to this complaint are well-known to both parties, so I won't repeat them all here. But, in summary, I understand them to be as follows.

In or around March 2020, Miss S was looking for some repair work to be carried out on her car. She found a garage who could undertake the work, who I'll refer to as 'C', and provided them with a 'to do' list. This included some paint work, welding and other 'little things' to do around the car. Happy for C to go ahead with the work, Miss S made the following payments to C, from the account she holds with Nationwide;

11 March 2020	£10
11 March 2020	£3,490
8 April 2020	£1,300

But Miss S has said that when she received her car back, some of the things that were agreed to be done hadn't been done at all, as well as this she said the work that *had* been done was botched. Miss S believes she's been scammed. In summary she said this because she didn't think C had carried out the agreed works, or that it had done so to such a poor standard and that C had broken her car.

Miss S raised the matter with Nationwide, as she believes she has been the victim of an authorised push payment (APP) scam. Nationwide looked into the concerns that Miss S had raised, but didn't uphold the complaint. In summary this was because it didn't think what had happened was a scam, so there was nothing more it could do to help.

Unhappy with Nationwide's response, Miss S then brought her complaint to our service. One of our Investigators looked into things, but didn't think the complaint should be upheld. Our Investigator considered whether the Lending Standards Board's voluntary Contingent Reimbursement Model (CRM Code), which Nationwide is signed up to and was in force at the time, applied to the payments Miss S made.

Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam. But our Investigator didn't think the CRM code applied here. In summary this was because she didn't think what had happened could be considered as a scam, and so the CRM code didn't apply and Nationwide were not liable to refund the money Miss S had paid.

Miss S didn't agree with our Investigator's view. In brief, she maintained that she believes this was a scam. As agreement couldn't be reached the case has been passed to me for a final decision.

## What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'm aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Having considered everything, I can see no basis on which I can fairly require Nationwide to refund the money Miss S sent. I can appreciate that this outcome is not the one Miss S was hoping for and I can understand why she wants to try and recover this money. But having thought about Nationwide's actions, I am unable to say it has a responsibility for refunding the money Miss S sent. I will explain why.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. When Nationwide made the payments, it was complying with Miss S's instructions. At the time, Miss S wanted to pay C and there was no mistake made as the money was sent to the correct account details.

As I don't think Nationwide acted incorrectly by making the payments, I've gone on to consider whether it should have refunded Miss S for any other reason. When considering what is fair and reasonable in this case, I've thought about whether Nationwide ought to reimburse her under the provisions of the CRM Code. But the CRM Code is quite explicit that it doesn't apply to all push payments. It says:

*"DS2(2) This code does not apply to:*

*(b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier"*

*Subsections (a) and (c) have been omitted as they are not relevant to this complaint.*

Both Nationwide and our Investigator felt the payments Miss S made formed part of a buyer/seller dispute and, as such, are not covered by the CRM Code. It's clear Miss S doesn't think the agreement she entered into with C went as planned and I don't doubt she hasn't received the quality of service that she was expecting. I can understand entirely why she feels so strongly about what has happened. But I can't safely say with any certainty, with what I know, that C set out with an intent to defraud her.

In order to conclude that the payments Miss S made were part of a scam, I'd need to be reasonably satisfied from the available evidence that C was not legitimate and had set out to defraud her. But based on what I know, I have not seen sufficient evidence to fairly and reasonably establish that C set out with the intent to defraud Miss S.

I firstly need to consider the purpose of the payment and whether Miss S thought this purpose was legitimate. I'm satisfied she did; she's explained that she believed the payments she was making were for repairs to her car. Then I need to consider the purpose the recipient (C) had in mind, at the time of the payments, and whether this was broadly in line with what Miss S understood to be the purpose of the payments.

In order for me to be persuaded Miss S has likely fallen victim to a fraud, I'd need to be satisfied the purpose of C receiving Miss S' payments differed from hers and that C intended, from the outset, to deceive her and likely not provide the services she'd been asked to pay for. Having considered the evidence from both parties, I'm not persuaded this was the case.

I say this because, from what I've seen, at the time, C was registered on Companies House and the nature of the services it provided included the maintenance and repair of motor vehicles. Importantly here, some work has been carried out – and while it may not have been carried out to the standard that Miss S could reasonably have expected, this doesn't in and of itself mean that C was operating fraudulently. Rather it supports that C's intended purpose was to provide what was paid for and some sort of service has been provided.

I've also considered evidence from the beneficiary bank (the bank to which the payments were made). Whilst I am unable to share details about a third party and the nature of their relationship with their bank, there doesn't appear to be any concerns of any other reports of fraud, or concerns that the account is being used for anything but legitimate purposes.

There may have been a number of reasons why C might not have provided the service or standard promised. Unfortunately situations do arise where retailers/merchants/suppliers can operate poorly, or be so chaotically mismanaged to the point where agreed services of goods aren't provided or are provided to a poor standard. But that doesn't necessarily amount to evidence of an intent to defraud.

After taking everything into careful consideration, so the testimony and evidence provided by both parties, on balance, I can't safely conclude what has happened here meets the high legal threshold and burden of proof for fraud. Rather, this appears to be a case of a supplier, failing to honour its agreement by not providing the service or standard of work that was expected.

I am very mindful that Miss S has told us that she reported the matter to the Police and Trading Standards. But I am not aware that there have been any charges brought or any convictions. For the reasons I've given, as it stands, there is not enough information for me to safely say this is a scam. However, should new material evidence come to light, the first port of call for Miss S would be to go back to Nationwide for it to see if this new evidence would lead it to reconsidering its position.

Overall and on balance, based on what I've seen. I'm not persuaded that this situation displays the hallmarks most typically associated with a scam. This is not to say that there is no issue at all between Miss S and C, clearly there is. But this type of dispute isn't something that the CRM Code covers. So I don't think it was unfair for Nationwide to take the view that it was unable to refund Miss S under the CRM Code.

I don't say any of this to downplay or diminish what Miss S has been through. She has my sympathy, in that she hasn't received her car back in the condition she had hoped for. But overall, I don't think Nationwide has treated Miss S unfairly when it concluded this was a civil matter.

**My final decision**

My final decision is that I don't uphold this complaint against Nationwide Building Society.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 23 December 2024.

Stephen Wise  
**Ombudsman**