

The complaint

Mr M complains that Nationwide Building Society has not met its obligations in regard to transactions he made on his debit card to get out of a Timeshare type agreement.

What happened

In August 2020 Mr M talked with a company which said it provided Timeshare Relinquishment services (which I will call "Company M"). Mr M says Company M told him it could liaise on his behalf with other firms who could get him out of his timeshare type agreement he had previously entered into. And that if those other firms could not get him out of his timeshare agreement within twelve months he'd get a refund. So Mr M paid Company M £6004 (over two transactions) and used his Nationwide Building Society (NBS for short) debit card to fund this transaction.

By October 2021 Mr M had engaged representatives to represent him because he felt Company M had done nothing in relation to getting him out of his timeshare agreement. These representatives have provided evidence showing it tried to contact NBS about Mr M's dispute with Company M. NBS says it didn't get anything from them until late 2022. And when it did look into the matter at that point it was too late to raise a chargeback through the card network. So it didn't refund him. Mr M complained and NBS said it hadn't done anything wrong. So still unhappy Mr M brought his complaint to this service.

Our Investigator considered the matter and felt that there wasn't any persuasive evidence that NBS had treated him unfairly. But Mr M did not agree so this decision comes to me to decide.

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 should make it very clear that this decision is not about Company M in regard to Mr M's timeshare relinquishment. This decision is solely about what NBS did or did not do in relation to its obligations in relation to Mr M. I should add that Mr M has provided substantial amounts of evidence and comment in relation to Company M and indeed apparently linked entities. I have considered all of this. However I will only be considering the actions of NBS here, as this decision can only consider how it considered Mr M's dispute and not some of the broader issues Mr M raises about other parties.

Mr M does not contest that he made the transactions originally, or that they were applied incorrectly to his account. I have considered the transactions themselves and I'm satisfied NBS didn't do anything wrong in processing it or allocating them to his account.

could NBS challenge the transaction through a chargeback?

In certain circumstances, when a cardholder has a dispute about a transaction, as Mr M does here, NBS can attempt to go through the chargeback process. Chargeback is a

process administered by the card scheme and not NBS and it is the scheme that has the final say on such disputes if taken to the conclusion of the chargeback process. So NBS could take a dispute such as Mr M's through the whole process and Mr M not be refunded through no fault of NBS'. Furthermore chargeback is not a right, but this Service does consider it good practice to raise a chargeback, if within the time limits and there is a reasonable prospect of success. I do not think NBS could've challenged the payments on the basis Mr M didn't properly authorise the transactions, given what I've already set out.

The chargeback rules have time limits from the date of transaction, the last date of expected service and also has an overarching 540 day 'long stop' rule. Here Mr M's transactions were in August 2020 and we know NBS says it didn't receive anything from Mr M's representatives until September 2022 on this matter. So if NBS' representations are correct then Mr M is out of time on the time limits rules. Specifically for the time limit of 120 day from the date of transaction time limit, the 120 days from the last date of expected time limit, that is 120 days from twelve months after the transaction when the refund was due (that is August 2021) and indeed the 540 day longstop. So if NBS' position is correct there is nothing further it could do in relation to this dispute as it doesn't set the rules regarding chargeback-the network does. And the network has confirmed it was out of time when NBS contacted it. And as this transaction was on a debit card there are no Section 75 rights under the Consumer Credit Act 1974.

However Mr M's representatives have provided a number of emails it says it sent to NBS between October and November 2021. Clearly from the dates of this correspondence had NBS received them then a chargeback would have been possible as this was at a point which would have been within the 120 days from last date of expected service and the 540 long-stop.

So did NBS receive this correspondence and would a chargeback have been successful?

NBS says it has no record of these emails. I've considered NBS' correspondence log of its interactions with Mr M from some time before the transactions were made through to it submitting its file to this service. There is no record of the correspondence from Mr M or his representatives on this dispute shown during October or November 2021 on that log.

NBS also notes that none of the correspondence Mr M's representatives says it emailed in October and November 2021 is to the correct email address for the submission of complaints. However I note that the correspondence is addressed to email addresses operated by NBS which it has confirmed when I had my investigator contact it on this point. But it should also be noted that just because an email is sent doesn't mean it has necessarily been received. I can only uphold complaints where I'm satisfied the business has failed in some way. Mr M's representatives have not provided email acknowledgments or email delivery receipts or any other indicators from NBS showing receipt of these emails. Nor has it provided evidence from email service providers demonstrating that these emails were delivered to NBS. Rather it has only provided copies of emails it says it sent. But as I've noted that doesn't demonstrate NBS received it or that NBS has failed in some way.

I'd also expect Mr M's representatives to have used the appropriate email addresses and it is unclear why it used these addresses. It is clear from Mr M's representatives' representations they understand chargeback time limits as they have made arguments on this point. It is of note that from Mr M's representatives last attempted contact with NBS there was still some weeks before the time limit expired. But it didn't contact NBS in that time from the evidence available to me. And I've not seen evidence of Mr M or his representatives trying to contact within the time limits after that point or why it didn't do so.

I've also considered the submissions the representatives say they made to NBS. I note that Mr M's representatives have provided little direct submission from Mr M on what happened or any real detailed testimony about what happened in Mr M's case. It has also not provided Mr M's contract with Company M but rather a sample of what it says was the contract Mr M would have agreed without any real explanation of why it thinks that was the type of contract Mr M did sign. It's submissions to NBS are lacking in detail and specific evidence to demonstrate any in time chargeback would have been successful had it been received in any event. So I'm not necessarily persuaded in any event that a chargeback would have been successful if NBS had received the submissions it says it made. I think based on what was provided, particularly around the sample contract that NBS could have required more evidence before raising a chargeback or even fairly decided not to raise a chargeback as it didn't think it had a reasonable prospect of success.

All in all, having considered all of Mr M's arguments I'm not persuaded he's lost out because of how NBS treated him. I appreciate that Mr M feels he has been duped and treated badly by Company M and lost out because of what it did. But that does not mean NBS has treated his unfairly. And I am satisfied on balance NBS did treat Mr M fairly. So his complaint is unsuccessful.

My final decision

I do not uphold this complaint against Nationwide Building Society. It has nothing further to do on this matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 August 2024.

Rod Glyn-Thomas
Ombudsman