

The complaint

Mr Z complains that Nationwide Building Society blocked his account and sent money that was paid into his account back to source.

What happened

Mr Z has a current account with Nationwide.

Mr Z used the account to receive and make payments for mobile phones that he bought and sold via a well known website, which I will refer to as D. Mr Z has said that he makes a small profit for each sale and has been trading in phones for quite some time.

Mr Z has explained that in February 2023, he purchased a mobile phone with a view to advertising it and selling it on D.

Mr Z was contacted by an individual I will refer to as Mr M who'd seen Mr Z's advert and offered to buy the phone. Mr Z agreed to sell the phone to Mr M for £460. Mr Z has provided screenshots of his conversation with Mr M agreeing to buy the phone.

Mr Z contacted Nationwide and explained that he had been a bit worried about Mr M and reached out to ask if he'd lose the money if Mr M turned out not to be genuine. Nationwide assured Mr Z that it would conduct an investigation before taking any action such as returning funds paid into his account.

Following this in May 2023, Mr Z received a credit for £460 from an individual I will refer to as Ms S in payment for the mobile phone he'd agreed to sell to Mr M.

In June 2023, Nationwide received a fraud report and indemnity from another bank. The other bank said that their customer had been the victim of fraud and asked Nationwide to recover the £460, Mr Z had received from Ms S from Mr Z's account so that they could return it to the victim of the scam.

In response, Nationwide contacted Mr Z and asked him to provide proof of his entitlement to the money he'd received from Ms S. Nationwide gave Mr Z a list of possible things he could provide including invoices, but also said it wanted to see bank statements from the person who had sent Mr Z the money. Whilst it looked into everything Nationwide blocked Mr Z's account.

Mr Z told Nationwide that he'd sold a mobile phone and provided screenshots of his conversations with Mr M and an invoice for the phone he'd sold to support his explanation. Nationwide reviewed everything and took the view that Mr Z had genuinely sold a mobile phone, and hadn't been aware that he'd been paid using the proceeds of crime. So, it decided to provide Mr Z with education about the risks of buying and selling goods. And in August 2023, returned the £460 to the sending bank.

Mr Z complained. He said he was now out of pocket and lost the mobile phone that he had sold. He said Nationwide had assured him he wouldn't lose out and that that he would be

able to keep the money. In response, Nationwide said it couldn't allow Mr Z to keep the funds as it wasn't happy with the origin of the funds. But Nationwide accepted that it could have managed Mr Z's expectations better and should have been clearer with what they told him about him being able to retain the money for the phone. To put things right Nationwide paid Mr Z £50 compensation.

Unhappy with this response, Mr Z brought his complaint to our service. He said he is out of pocket and wants the money he was paid for selling the mobile phone. He said he had no knowledge that there was anything untoward about the funds coming into his account. And he provided enough evidence that he was entitled to the money.

One of our investigator's looked at the information Mr Z had provided. They said Nationwide hadn't done anything wrong by reviewing and blocking Mr Z's account. However, they didn't think Nationwide had treated Mr Z fairly when it sent the money back to the sending bank. To put things right the investigator said Nationwide should:

- Refund Mr Z the £460 along with 8% simple interest per annum for loss of use of these funds from 2 August 2023 until the funds are returned to Mr Z and
- Pay Mr Z a total of £100 compensation for the trouble and upset the matter had caused him.

Mr Z agreed. Nationwide didn't. It said it hadn't done anything wrong when it sent the money paid into Mr Z's account back to source. It said it had done so because it represented the proceeds of crime and was obliged to comply with the indemnity claim it had received from the other bank. And that Mr Z hadn't provided them with the bank account statements of the person sending him the money.

As no agreement could be reached the matter has come 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.

Account block

I'll deal first with Nationwide's decision to block Mr Z's account. I want to make it clear that I understand why what happened concerned Mr Z. I've no doubt it would've come as quite a shock to him, and he would've been very worried to find out that his account had been blocked. But as the investigator has already explained, Nationwide has extensive legal and regulatory responsibilities they must meet when providing account services to customers. They can broadly be summarised as a responsibility to protect persons from financial harm, and to prevent and detect financial crime.

I've considered the basis for Nationwide's review and decision to block Mr Z's account. Fraud is a serious matter. Nationwide had been contacted by another bank who told them, Mr Z had received fraudulent funds into his account. Based on this I'm satisfied that Nationwide's decision to block Mr Z's account was therefore legitimate and in line with its legal and regulatory obligations. Doing so also enabled Nationwide to consider how best to react to the information it had received from the sending bank about the money that had been paid into Mr Z's account. So, I'm satisfied Nationwide acted fairly by blocking Mr Z's account.

The terms and conditions of Mr Z's account also make provision for Nationwide to review and suspend an account. And having looked at all the evidence, I'm satisfied that Nationwide have acted in line with these when it suspended Mr Z's account. So, although I understand not having access to his account caused Mr Z trouble and upset it wouldn't be appropriate for me to award Mr Z compensation since I don't believe Nationwide acted inappropriately in taking the actions that it did when it blocked Mr Z's account.

Indemnified funds

The crux of Mr Z's complaint is that he wants Nationwide to refund him the money he says he lost as a result of the mobile phone sale made with Mr M. Having looked at all the evidence and circumstances of this complaint, I'm minded to say that the fair and reasonable outcome is that Nationwide should refund the money to Mr Z. I shall explain why.

First, I'd like to acknowledge the difficulties that this complaint presents. There was a particular tension for Nationwide here because on the face of it, both Mr Z and the sending bank's customer were victims. There is a natural impulse to restore positions as far as possible. It is well documented that banking fraud is very damaging not only to the financial sector itself, but more particularly to individuals.

Nationwide decided to return the funds to the sending business, so that its customer, could be refunded. Nationwide said it did this on the basis that the sending business had provided Nationwide with an indemnity. And that the funds Mr Z received were the proceeds of crime. The effect of Nationwide's actions meant that Mr Z lost both his mobile phone which he'd sold legitimately to Mr M and the money he had expected in payment for it.

In this case Mr Z had a credible complaint. I have kept in mind that according to Mr Z's bank statement the funds originated from a Ms S and not Mr M. And I note too that Mr Z appeared to be quite uneasy about dealing with Mr M, so much so that he reached out to Nationwide for some reassurance that he wouldn't lose the funds he was expecting in return for the mobile phone. I don't think Mr Z would have taken this action if he was knowingly involved in fraud. In hindsight I think Mr Z should have questioned why he was receiving money from someone other than Mr M. But there's no evidence to suggest Mr Z dishonestly procured the funds from Ms S. Nor is there any evidence that he knew, believed, or suspected that the funds had been illegitimately procured by someone else in order to pay for the mobile phone. It seems Nationwide also accepts this position.

Nationwide have said they were obliged to return the funds after receiving an indemnity for the sending business. However, I disagree with this. An indemnity is simply an agreement between the two financial businesses that provides some protection to the receiving bank being asked to return the funds by the sending business. It doesn't compel the receiving bank to return the funds, if following its own investigation, it establishes that its customer has a legal right to the money and was not involved in any fraud or scam. So, I don't agree that the indemnity Nationwide received from the sending business placed any legal obligations on them to return the money.

I've also looked at Nationwide's terms and conditions and I can't see that there is a specific term that allows the bank to do what it did. However, even if there were I'd expect Nationwide to carry out its own investigation to establish if Mr Z had behaved fraudulently and to investigate the sending businesses' claim. This is in line with the industry best practice standards when receiving a report that their consumer has been the recipient of fraudulent funds. With this in mind, I don't accept Nationwide acted fairly when it returned the payment to source.

I say this because Mr Z has provided this service with information about which led up to the payment he received from selling a mobile phone – communications with Mr M and evidence that he had purchased a phone to sell. I can see that Nationwide asked Mr M to provide them with bank statements of the person who sent him the £460 to show he was entitled to the money. But I don't think this was information Mr Z could reasonably be expected to provide in the circumstances. I've also kept in mind that even without this information Nationwide decided Mr Z hadn't done anything wrong. So, I'm persuaded that Mr Z has provided as much information as he is was able about the money and that his explanation is plausible.

Based on what I've seen I think it's most likely Mr Z was engaged in genuine mobile phone sales, which included using his Nationwide account to buy phones to sell. Therefore, I can't see any reason for Nationwide to return the money to the sending bank. So, I find the fair resolution here, based on the information I've seen so far, would be for Nationwide to return the funds it took from Mr Z's account. Mr Z has also been deprived of these funds so I think Nationwide should also pay Mr Z 8% simple interest per annum for loss of use of these funds.

I think Nationwide should pay Mr Z an additional £100 compensation to reflect the trouble and upset the matter has caused him. I say this because Mr Z had to spend time contacting Nationwide trying to sort out what had happened to his funds. And I don't think Nationwide did enough to satisfy themselves that Mr Z wasn't entitled to the money paid into his account.

My final decision

For the reasons I've explained, my final decision is that I partly uphold Mr Z's complaint. To put things right Nationwide Building Society should do the following to put things right:

- Pay Mr Z £460 that was returned to source.
- Pay 8% simple interest per annum on £460 from 2 August 2023 until the date the funds are returned to Mr Z*.
- Pay Mr Z a total of £100 compensation for the trouble and upset this matter has caused him.

*If Nationwide Building Society considers that it's required by HM Revenue & Customs to deduct tax from that interest, it should tell Mr Z how much it's taken off. It should also give Mr Z a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 3 March 2025.

Sharon Kerrison
Ombudsman