

The complaint

Ms O has complained Nationwide Building Society won't refund her for a cash machine withdrawal that wasn't successfully completed.

What happened

On 14 October 2023 Ms O went to a cash machine and withdrew £300. Later that day and in the same area she decided she needed further cash and tried to withdraw £200 unsuccessfully. Whilst she was at the cash machine, somebody ran past, thumped the cash machine and ran off. She was left without cash and her card which she reported to Nationwide.

Nationwide believed Ms O had withdrawn a further £200 successfully at the same cash machine as she'd used earlier in the day. Ms O was confused by this as she was sure she'd attempted to use the cash machine belonging to another bank across the road. After review Nationwide believed it was most likely Ms O had made the cash machine withdrawal and took back the £200 they'd initially credited back to her account.

Ms O brought her complaint to the ombudsman service.

Our investigator noted the evidence suggested Ms O had indeed used the cash machine that she'd used earlier in the day. He wasn't going to ask Nationwide to do anything further.

Ms O continued to disagree and remained adamant that she'd tried to use a different cash machine across the road. She provided photographs which confirmed her earlier statements that there'd been fraud-related warnings attached to the cash machine at a later date.

Ms O's complaint has been referred to an ombudsman.

I completed a provisional decision on 23 October 2024. I believed there was enough evidence to show Ms O hadn't taken out cash as Nationwide believed.

Ms O accepted this outcome. Nationwide didn't respond. I now have all I need to complete 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.

Having done so, I've reached the same outcome as I did in my provisional decision. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

It's worth stating that I can choose which weight to place on the different types of evidence I

review, including technical evidence, provided by financial institutions along with complainants' persuasive testimony.

When considering what is fair and reasonable, 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 relevant time.

The regulations which are relevant to Ms O's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves.

To help me come to a decision, I've reviewed the evidence Nationwide provided as well as what Ms O has told us.

I don't believe Ms O made or authorised the disputed cash machine withdrawal. I say this because:

- I believe there is a clear point of compromise of Ms O's card and PIN. Ms O – according to her testimony – attempted to use a cash machine to withdraw further funds to buy some things from the market she needed before going away. Somebody banged the machine, and it was then she noticed her card was retained by the machine and there was no cash.
- I've seen evidence that the cash machine owner – where Ms O is convinced she tried to withdraw cash – placed a warning by the cash machine to say fraudulent use of cash machines was rife in the area.
- I believe it's feasible that the individual banging the cash machine was distracting Ms O sufficiently to enable them to swipe her card before any real transaction started. This would explain why Nationwide has been unable to find any evidence of use by Ms O at the cash machine she insisted she was standing at.
- This individual was then able to use the cash machine across the road – coincidentally the one Ms O used earlier in the day to withdraw £300. They carried out a balance enquiry. After noting the funds available, they tried to withdraw £400. This was rejected. They tried to withdraw £300. This was also rejected. £200 was successfully withdrawn and this was followed by an attempt to withdraw a further £50. This was rejected as Ms O's daily withdrawal limit had been exceeded. I wonder why it should be assumed this would be Ms O as she clearly knows her daily withdrawal limit and would have been aware that she wouldn't be able to withdraw a further £400 or £300. I imagine she'd also have been aware what her balance was since she'd withdrawn £200 herself earlier.
- Ms O has been insistent throughout which cash machine she was trying to use when she was disrupted. Everybody has assumed she is mistaken or lying but again I have to wonder why. Nationwide has confirmed Ms O has no history of fraud claims.
- I note from the bank statements for Ms O's account that Nationwide has shared with us that Ms O – like all of us – tends to use the same cash machines time and again. So, I did wonder why she used a different machine from the one she'd used earlier that day. But there's at least one instance of a cash machine belonging to another bank being used just once in the six months of statements shared with us.

Based on the evidence I've considered I don't believe there's enough to show the withdrawal was completed by Ms O. Nationwide will need to refund £200 to Ms O along with 8% simple

interest from 14 October 2023.

My final decision

For the reasons given, my final decision is to instruct Nationwide Building Society to:

- Refund £200 to Ms O; and
- Add 8% simple interest to that amount from 14 October 2023 to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms O to accept or reject my decision before 9 December 2024.

Sandra Quinn
Ombudsman