

The complaint

Mr O has complained Nationwide Building Society won't remove a fraud-related marker they've lodged in his name.

What happened

In January 2024 Mr O submitted a direct debit indemnity claim to Nationwide. He believed there were direct debits for £375 being paid from his account to another financial institution (who I'll call S) for a loan which he'd not taken out.

Nationwide refunded £10,131.75 to one of Mr O's current accounts. They then queried this with S who provided Nationwide with a copy of Mr O's loan agreement with them. This was for a loan taken out in December 2019.

Nationwide confirmed to Mr O they would be re-debiting this amount. They subsequently decided to close Mr O's account and lodge a fraud-related marker in his name with CIFAS, the industry fraud body.

Mr O asked Nationwide to remove the CIFAS marker. He queried the loan agreement which he believed held no signature.

Nationwide wouldn't remove the marker, so Mr O brought his complaint to the ombudsman service.

Our investigator reviewed the evidence. She initially asked Nationwide to remove the marker but on reconsideration of further evidence told Mr O she wouldn't be asking them to do anything more.

Very unhappy, Mr O asked for his complaint to be referred to an ombudsman. He also provided references to various pieces of case law which he believes shows Nationwide did not meet their obligations to him and:

- Relied on unsigned documentation;
- Improperly blocked his accounts; and
- Unlawfully placed a CIFAS marker on his account whilst breaching data protection regulations.

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 to our investigator. I'll explain why.

It is clear what the requirements are prior to lodging a marker. Specifically:

“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted.

The evidence must be clear, relevant and rigorous.”

Nationwide must be able to provide clear evidence that an identified fraud was being committed and Mr O was involved.

I've seen the evidence provided by Nationwide. This confirms Mr O raised a direct debit indemnity claim saying he didn't recognise a loan with S where payments were debiting his Nationwide account. This was despite these payments having been made for four years and the loan in fact having been settled by Mr O making the last monthly payment in December 2023.

Nationwide were concerned that Mr O immediately moved the credits they made to his account to an account he held elsewhere. They'd also been concerned by recent loan applications that Mr O had made with correspondingly large credits being made to his account.

I've also reviewed the evidence Mr O has provided. This included his detailed review of existing case law and how he believes this applies to his situation with Nationwide. I'll refer to this further below.

I've noted the loan agreement between Mr O and S. I find it odd that Mr O queried this loan and the payments he'd made with Nationwide rather than S. He is incorrect in his view that there must be a physical signature to indicate that he took out this loan. I should stress that I don't have sufficient information to decide whether Mr O definitively took out this loan (nor is that the subject of this complaint) but based on what I know, I think it's more than likely he did. I'm therefore not surprised that Nationwide took the stance they did in believing the evidence submitted by S.

I've also been able to see some of Mr O's history with Nationwide. It's clear that there were issues in their past relationship which caused Nationwide to decide they intended to close his account.

The requirements around banks lodging markers at CIFAS include there being sufficient evidence that the customer was aware and involved in what was going on. In this case I'm convinced this exists here from reviewing both Nationwide's evidence and Mr O's testimony.

I looked at the evidence Mr O submitted to our service for my consideration. I don't believe there's any requirement on me to provide a point-by-point rebuttal of the examples Mr O provided. I have made my decision taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to be good industry practice at the time Nationwide made the decision they did to lodge a marker at CIFAS.

Overall, I'm not convinced by Mr O's evidence and won't be asking Nationwide to remove the fraud-related marker.

My final decision

For the reasons given, my final decision is not to uphold Mr O's complaint against Nationwide Building Society.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 8 November 2024.

Sandra Quinn
Ombudsman