

The complaint

Mrs T complained because Nationwide Building Society refused to refund her for cash machine withdrawals which she said she didn't make.

What happened

When Mrs T received her Nationwide statement for February 2024, she noticed eight cash machine transactions which she hadn't made. They were from 15 January to 8 February, and were all for £250, making a total of £2,000. Mrs T contacted Nationwide and her card was cancelled to prevent further transactions. She told Nationwide that she had no idea her card had been compromised and her card was always in her possession, and no-one else had access to her card or PIN.

Nationwide refused to refund Mrs T. It said it couldn't see how anyone could have had access to her card and known her PIN. Mrs T had also made genuine payments after the disputed ones, showing that she still had the card. Mrs T complained.

Nationwide didn't change its decision. In its final response letter dated 4 March, it said it hadn't done anything wrong. It said it had listened to Mrs T's calls with Nationwide and had reviewed the investigation, but based on the evidence it couldn't uphold the claim. It gave her advice about security when using a cash machine.

A friend helping Mrs T wrote to Nationwide on 11 April. He explained Mrs T is a widow in her late eighties, unable to get to a Nationwide branch because of limited mobility, and unable to access her account via the internet. He said he found Nationwide's final response letter to be dismissive and unhelpful, especially in Mrs T's personal circumstances. Mrs T's representative pointed out that the transactions didn't reflect her normal pattern of spending and cash withdrawals, and that the £2,000 total was a considerable amount for someone in Mrs T's situation.

Nationwide replied on 16 April. It said it believed its outcome had been fair, based on the evidence. It told Mrs T about its support team for vulnerable customers and gave her the phone number if she wanted help with day-to-day banking.

Mrs T wasn't satisfied with the outcome, and contacted this service.

Mrs T said that since her original complaint to Nationwide, she'd seen more withdrawals which she hadn't authorised, going back to 29 November 2023, and continuing until 6 May 2024. The total taken was £8,700. Mrs T said that she was very concerned that some of the withdrawals had occurred after she'd told Nationwide about the problem some four months earlier.

Mrs T explained that she believed her account details had been compromised, and she didn't think Nationwide had taken this seriously, instead just thinking she'd forgotten when she'd withdrawn money. She said Nationwide should have been more sympathetic and should have prevented any further fraudulent withdrawals by closing that account and transferring it to another.

Mrs T said she thought there were three possible scenarios:

- That her card had been cloned, enabling individuals to withdraw her money;
- That a corrupt Nationwide employee had targeted her account;
- That a member of her family had fraudulently used her card. Mrs T said she was certain that this option could be discounted as the card had always been in her possession.

Mrs T said she was extremely anxious and was seeing her bank balance dwindle, and she asked for this service to help. She asked for reimbursement of the £8,700, and compensation for the emotional distress caused her. She also asked for a guarantee that her account was secure, and a better attitude from Nationwide staff. She said she believed her card had been compromised, and despite her complaint this had continued to happen.

Our investigator didn't uphold Mrs T's complaint. She said that Nationwide had evidenced that the disputed transactions were carried out with the genuine card and correct PIN. So if someone else had done them, they'd had to have had access to her card and PIN. Mrs T had said that her card was in her possession at all times; her details weren't written down; and she'd never given her card or PIN to anyone to use on her behalf. So the investigator couldn't see how a third party could have obtained her card or PIN to make the disputed transactions.

The investigator also noted that the disputed transactions had taken place over a period of six months, not immediately emptying the account. And they'd continued on the replacement card after Nationwide had changed the card, and without any attempted transactions on the old card. There had also been genuine transactions between the disputed ones. So she didn't uphold Mrs T's complaint.

Mrs T didn't agree. She felt the investigator was accusing her or her family of being thieves. The investigator assured her that she didn't think Mrs T was a thief. During the conversation, Mrs T also raised some more recent transactions which she hadn't authorised, which weren't cash withdrawals but were other payments from her Nationwide account. The investigator explained that new payments would need to be raised with Nationwide first, but Mrs T's original complaint was referred for an ombudsman's 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.

First, I can see that Mrs T has been very concerned and upset about the disputed payments. I can understand that this would have been very worrying.

I'll set out what I can and can't consider about Mrs T's complaint. There are rules, set by the regulator the Financial Conduct Authority (FCA) which govern what we can and can't consider. One of these says that we can only look at issues which have previously been raised with the financial organisation first.

Here, Mrs T complained to Nationwide about the eight cash withdrawals between 15 January 2024 and 8 February 2024, totalling £2,000. So, technically, I can only consider these in this decision. I have, however, borne the context of wider disputed transactions in mind when considering what's most likely to have happened. But in order for us to consider:

- the other cash withdrawals between 29 November 2023 and 6 May 2024; and/or
- the disputed payments which weren't cash withdrawals,

Mrs T would need to complain about these to Nationwide before she can bring them to this service.

What the Regulations say

There are regulations which govern disputed transactions. The relevant regulations here are the Payment Services Regulations 2017. In general terms, the bank is liable if the customer didn't authorise the payments, and the customer is liable if they did authorise them. So what I have to decide here is whether it's more likely than not that Mrs T, or someone else, authorised the disputed cash withdrawals.

Who is more likely than not to have carried out the disputed withdrawals?

The technical computer evidence shows that the disputed withdrawals were carried out using the genuine card and PIN. Mrs T has suggested that her card might have been cloned, but I find that's unlikely in this situation.

Although there is often talk about cards being cloned, cloning only takes an image of the card, including the magnetic stripe. It's not generally thought possible to copy the chip embedded in the card, and our service hasn't come across any cases where we felt this was a likely explanation of what happened. Cloned cards have been used for things like telephone or online transactions where the actual card isn't presented. But cloned cards won't work where a card is physically presented – for example in a cash machine – because the chip is read. Chip technology is complex and sophisticated and there have been no known instances when the chip in the card has been successfully copied. If a cash machine reads a card and it's a cloned card which lacks the genuine chip, the transaction will be rejected. So I accept that the disputed payments here were made using Mrs T's genuine card, which she was also using for genuine payments around the same time.

Mrs T's correct four-digit PIN was also correctly entered each time. There are 10,000 possible combinations of a four digit number. So it wouldn't have been possible for anyone to guess Mrs T's PIN.

Mrs T also suggested that a corrupt Nationwide employee had taken the money. I don't think this is a possible option. First, as I've explained above, Mrs T's genuine card, which she said she had with her, was used for all the disputed transactions. I can't see how a Nationwide employee could have repeatedly obtained it without Mrs T's knowledge, used it, and returned it, repeating this process. This problem would also arise with any hypothetical fraudster who might have stolen Mrs T's card while she was out shopping. I don't think it's at all likely that a third-party fraudster unknown to Mrs T would repeatedly have stolen, used and returned the card. It's just not credible that any such person would have returned the card, and in any case they couldn't have known her PIN which she said she hadn't written down.

Also, Nationwide employees don't have access to customers' PIN numbers. These are generated by a central computer and sent out to customers – and customers can change their PINs too.

This just leaves two options for who carried out the disputed transactions – Mrs T herself, or someone who had regular access to her home, card, and would be more likely to know her PIN. Unfortunately the latter option would mean it was someone Mrs T trusted, which I know is unattractive.

I've had to consider whether I think it's likely that Mrs T carried out the disputed transactions herself. But I don't think she did. Mrs T's evidence has been consistent throughout. She

comes across as a truthful witness. I have also seen no evidence, in her handwritten complaint form to us, or in her phone calls with us or with Nationwide, that might indicate any loss of mental faculties meaning she might have forgotten she'd made the withdrawals herself. She told us that she is still independent, and does her own shopping. Mrs T was also very concerned, after the investigator's view, that we shouldn't think she was a thief. I'll specifically reassure her that I don't think Mrs T was a thief.

Unfortunately, that only leaves the most likely option as being someone who has regular access to Mrs T's home, either a family member or anyone who regularly visits either to help or socially. They'd have had regular repeated access to Mrs T's card, and would have known her well enough to know what sort of number she might use for her PIN, such as an important birthday. This is also borne out by the fact that when Nationwide cancelled Mrs T's old card in spring 2024, and issued a new one, the fraudulent transactions continued with no failed attempts to use the old card, and instead continued seamlessly with the new card.

I recognise this is a difficult message. Mrs T herself, when considering the logical options, said she was certain we could discount this. But I can't see any other way in which someone could have obtained and returned her card regularly, and could have found out her PIN. And as I believe Mrs T didn't carry out the transactions herself, there's no other option. But as Mrs T is certain that no-one else had access to her card, it's not open to me to come to that conclusion and tell Nationwide to refund her.

My final decision

My final decision is that I can't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 30 January 2025.

Belinda Knight
Ombudsman