

The complaint

Mr and Mrs L complain that Nationwide Building Society has not refunded the money they lost to what they believe was a scam.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of what happened here.

Mr and Mrs L were looking to buy a vehicle. They found one that matched their needs on a well-known website and got in touch with the seller. They made an initial payment of £500 as a deposit, and after some issues with arranging delivery they then went on to pay a further £1,500 for the remaining purchase price of the vehicle, believing that it would be delivered shortly. Mr L was then sent a video showing a vehicle being delivered (with the keys left with the vehicle) outside an address down the street from where Mr and Mrs L lived. But this was not the vehicle he and Mrs L say they had agreed to buy, it was a slightly different model with a different registration and was in poor condition.

Mr and Mrs L told the seller that they had delivered the wrong vehicle, but the seller refused to correct this or to provide a refund. Subsequently the seller registered Mr L as the car's owner with the DVLA, Mr and Mrs L told the DVLA to transfer ownership back to the seller, and it did so. The car has since been towed away.

Mr and Mrs L told Nationwide what had happened, they have also raised the matter with the police and with Trading Standards. Trading Standards have said there have been complaints about other businesses operating from the same address as the seller of the vehicle. Nationwide did not agree that what had happened was a scam, it told Mr and Mrs L it felt this issue was a civil dispute between them and the seller, and so said it would not be refunding their loss.

Unhappy with Nationwide's response, Mr and Mrs L brought their complaint to this service and one of our investigators looked into things. But they agreed with Nationwide that this was most likely a civil dispute, and so Mr and Mrs L were not entitled to a refund of the payments made. Mr and Mrs L remained unhappy, so, as the case could not be resolved informally, it's been passed to me for a 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 and having thought very carefully about Nationwide's actions, I agree with the findings set out by our investigator. I do appreciate how disappointing this will be for Mr and Mrs L but, whilst I'm sorry to hear of what's happened, I don't think I can fairly hold Nationwide liable for their loss.

This is because not all cases where individuals have lost sums of money are in fact fraudulent and/or a scam. So, whilst I understand that Mr and Mrs L feel they have been scammed, there is a high legal threshold or burden of proof for fraud and there are a number of potential reasons (other than a scam) for the breakdown in a relationship between two parties and for a dispute to exist.

When considering what is fair and reasonable in this case, I've thought about the Contingent Reimbursement Model Code (the CRM Code) which Nationwide has signed up to and which was in force at the time Mr and Mrs L made these payments.

Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam. So, I've thought about whether the CRM code applies in the circumstances of this complaint, and whether Nationwide therefore ought to reimburse Mr and Mrs L under the provisions of the CRM Code.

The CRM Code is quite explicit that it doesn't apply to all push payments. It says:

"DS2(2) This code does not apply to:

(b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."

Nationwide is of the opinion that Mr and Mrs L's circumstances fall into this definition of a private civil dispute and I agree that this is most likely the case here. I'm not persuaded that I can safely say with any certainty, based on what I know and what the evidence shows, that the seller set out with an intent to defraud Mr and Mrs L. It seems more likely to me that this is a dispute about the failure of the seller to provide the expected goods or to offer a refund when Mr and Mrs L said they did not wish to keep the vehicle.

I say this for the following reasons:

- Nationwide asked the seller's bank to look into these payments and it confirmed that it had no concerns about scam activity on the seller's account.
- While there appears to be no information about the seller available online – it seems he was a sole trader – there are also no other examples of online reviews showing that other buyers have had the same experience as Mr and Mrs L, which one might expect if he was a scammer.
- If the seller was intending to scam Mr and Mrs L it's not clear why he would have gone to the effort of delivering a vehicle.
- While I can see the police and Trading Standards have been involved, I've seen nothing to show that either agency has made any clear findings about the seller acting fraudulently.

Overall, I must make my decision based on what I think is most likely to have happened. And I haven't seen evidence to persuade me that the seller set out from the time of the relevant payments with the intent to defraud Mr and Mrs L.

I know this will be a huge disappointment to Mr and Mrs L. I appreciate how strongly they feel about this case, and that they have lost a significant amount of money here. And some of the information Mr and Mrs L have sent us does suggest that the seller wasn't acting professionally, but that does not mean that this was a scam, rather than a case of poor business practices. So, for the reasons I've explained above, I do not consider that the payments in dispute here are covered under the CRM Code, or that it would be fair to hold Nationwide responsible for the money lost.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L and Mrs L to accept or reject my decision before 31 October 2024.

Sophie Mitchell
Ombudsman