

The complaint

Mr S complains that Nationwide Building Society would not provide him a refund under the Direct Debit Guarantee (DDG) scheme).

What happened

Mr S submitted a refund request under the DDG scheme to Nationwide following a sustained period of complaints to his energy supplier. He says the Direct Debits had been taken in error and were either incorrectly billed, for the incorrect amount, or taken on the wrong date. Mr S says that Nationwide did not adhere to the wording of the DDG scheme, as they did not give him an immediate refund, and they completed an investigation. He didn't receive a refund after the investigation. Mr S made a complaint to Nationwide.

Nationwide did not uphold Mr S' complaint. They said under the DDG scheme they are only able to claim if the merchant has breached their mandate in the way they have taken the payments. They said in this case the merchant has provided bills sent to Mr S prior to the payments showing the amount that will be debited going forward for each time he has changed his deal and an arrangement for a payment plan to repay arrears over a period from 1 April 2022 – 3 January 2023, so his claim was not valid under the DDG scheme. Mr S brought his complaint to our service.

Our investigator did not uphold Mr S' complaint. He said Nationwide acted how he would expect them to act by rejecting the refund under the DDG scheme. Mr S asked for an ombudsman to review his complaint. Mr S made a number of points. In summary, he said all of his Direct Debits are set up for the 31st or the first of each month hence any payment not taken on these dates is incorrect.

Mr S said that since 2018, his energy supplier billed him for a dual rate meter when he had a single rate meter, which meant all future bills were both the incorrect amount and incorrectly billed. He said his energy supplier will not provide him what he's asking for.

As my findings differed in some respects from our investigator's, I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr S has made a number of points to this service, and I've considered and read everything he's said and sent us. But, in line with this service's role as a quick and informal body I'll be focusing on the crux of his complaint in deciding what's fair and reasonable here.

I must make it clear to Mr S that I'm only able to consider the actions of Nationwide as part of this complaint. Mr S has raised issues regarding his energy supplier, but as they do not fall under our jurisdiction, Mr S may wish to make a complaint to his energy company directly if he believes they have done anything wrong. If he is not happy with their response then he may be able to bring his complaint to the Energy Ombudsman, which is a separate Ombudsman service to our service.

I've looked at the wording of the DDG. It states that "The Direct Debit Guarantee applies to all Direct Debits. It protects you in the rare event that there is an error in the payment of your Direct Debit, for instance if a payment is taken on the incorrect date, or the wrong amount is collected. It cannot be used to address contractual disputes between you and the billing organisation."

I've considered whether Nationwide should have processed the refunds that Mr S asked them to. But in order for Nationwide to do this, they would need to ensure the criteria of the DDG scheme was met before refunding the money. So I would not expect them to refund the money automatically without checking the criteria was met first.

I say this because some of the Direct Debits Mr S asked Nationwide to refund were from several years earlier. So this could point to a contractual dispute. I say this as if there was an error with these payments at the time of collection, it would be proportionate for Mr S to contact Nationwide after these payments had debited his account to obtain a refund as opposed to waiting years later to ask for a refund.

In addition, if Nationwide had processed the refunds and the criteria hadn't been met, then this could have caused Mr S difficulty if the funds were re-debited from his account, which would be the likely outcome if the DDG criteria hadn't been met.

The website for the DDG scheme also contains the following wording "What the Guarantee doesn't do is affect the contract you have with a biller. For example, if you make a monthly payment for a mobile phone, and the biller takes the wrong amount, you can claim that money back but you will still owe the biller for the calls you've made and the data you've used, or for the amount you agreed to pay."

This is a statement made to confirm that a successful claim under the DDG scheme does not indemnify a customer from owing the funds. It does not mean that a customer has the right to claim back any funds they wish without challenge and repay the merchant as they see fit. A claim is only able to be made under the DDG scheme if the merchant has breached their mandate in the way they have taken the payments. The scheme is very clear in the actions a company must take when using the Direct Debit payment method and the DDG is in place to provide protection should those rules not be followed.

So I've had a look at the chat transcript Mr S forwarded our service when he asked for multiple energy Direct Debits to be refunded. Nationwide received evidence from the energy company about his Direct Debits with a number of documents and Nationwide declined the refund as it was deemed Mr S didn't meet the criteria for a refund under the DDG as there was no error with the payments.

I've reviewed the evidence that the energy provider forwarded Nationwide. I've cross referenced this against the list of Direct Debits Mr S wanted refunding. But while the energy provider provided evidence that the majority of payments were collected correctly, I noticed there was no evidence provided covering some of the Direct Debits Mr S had asked Nationwide to refund.

These were the Direct Debits Mr S asked Nationwide to refund which he said were collected on 7 December and 19 December 2018, 17 June 2019, 1 April 2021, and 1 June 2022. After reviewing Mr S' bank statements I can see there was a Direct Debit payment attempted on 6 December 2018 (not 7 December 2018) was returned to his account on the same day as he didn't have sufficient funds to make the payment. So this would be another reason why Nationwide wouldn't be expected to automatically process a refund under the DDG scheme without any investigation.

Nationwide have provided evidence of the Direct Debit refund form which was completed, and this didn't contain the 19 December 2018 Direct Debit payment. So if Mr S feels there were errors with this payment, he should contact Nationwide to ask them to provide him a refund under the DDG scheme, although this won't prevent the energy company providing evidence to Nationwide that this payment was correctly taken (if they have any evidence of this).

Nationwide couldn't provide any evidence from the energy supplier that the payments from 17 June 2019, 1 April 2021 and 1 June 2022 were taken correctly. They told me they would re-key these to the merchant on 25 September 2024. They said the merchant has 21 days to respond. Mr S should be aware that the energy supplier might challenge the refund request by providing evidence that the payments were correctly taken (if they were).

The energy supplier has provided evidence that all of the other payment amounts were taken in line with their communications to Mr S. But I've considered what Mr S has said about Direct Debits being set up for the 31st or the first of the month and any payments not taken on these dates are incorrect.

While I understand Mr S' logic here, I'm not persuaded by his argument. I say this because Direct Debits can only be collected on a working day. A working day would not include weekends or a Bank Holiday. So for example, a Direct Debit would not be collected on New Year's Day – 1 January.

So I'm satisfied that Nationwide were reasonable not to process a refund when a non-working day happened to be on the first of a month. And as Mr S has said himself, his Direct Debits were set up on either the 31st or the first of the month (I can confirm to him it was the first of the month), therefore it doesn't appear that one or two days difference would financially affect him if he didn't know the exact date they were collected from his account.

So I've considered what would be a fair outcome for this complaint. I do think that Nationwide should have asked for evidence from the merchant regarding the 17 June 2019, 1 April 2021, and 1 June 2022 payments before rejecting Mr S' claim for those payments. While I'm persuaded Nationwide were fair to reject Mr S' other refund requests based on the evidence the energy supplier provided to them, Nationwide have caused a delay in the resolution of the three payments mentioned earlier.

It's probable that the energy company might provide evidence that these payments were valid, considering that they have been able to do so for all of the other payments included on the refund form. But I still think that Mr S will have suffered distress by finding out that three of the payments he asked for a refund for had not been managed in the way I would expect Nationwide to manage his request.

So regardless of the outcome of these three re-keyed refund requests. I'm persuaded that Nationwide should pay Mr S £100 to reflect the impact of the distress caused to him by not following the process I would expect them to follow on the three payments I've mentioned.

If this would have been done at the time of the investigations into all of the other payments, even if the energy company provided valid evidence of these three payments, Mr S could have drawn a line under the issue. But now he'll be waiting to see if these three refund requests are accepted/rejected which would impact him. So it follows I intend to ask Nationwide to put things right for Mr S."

I invited both parties to let me have any further submissions before I reached a final decision. Neither party responded to the provisional 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.

As neither party have provided me with any further information to consider, then my decision and reasoning remains the same as in my provisional decision.

Putting things right

In the provisional decision I said I intend to uphold this complaint in part. I said I intend to ask Nationwide Building Society to pay Mr S £100 compensation for distress. I'm still satisfied this is a fair outcome for the reasons given previously.

My final decision

I uphold this complaint in part. Nationwide Building Society should pay Mr S £100 compensation for distress.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 November 2024.

Gregory Sloanes
Ombudsman