

The complaint

Mrs D is unhappy that Nationwide Building Society won't refund transactions on her credit card which she says she didn't make or authorise.

Mrs D is also unhappy that she experienced issues with Nationwide's online banking and missed the date her credit card was due to be paid and as such has incurred interest, which she'd also like to be refunded.

What happened

Mrs D says she had previously used her credit card details on a gaming console for her son but had cancelled her subscription in November 2022. However, in March 2023 and April 2023 her son was able to carry out transactions using a gaming console and transactions debited to a merchant which I'll call M. Mrs D says she did not make or authorise these transactions.

Mrs D said she received alerts about these transactions and that these required her approval. However as these alerts expired she says they weren't approved and therefore shouldn't have gone through, so she'd like a refund.

Mrs D is also complaining that in January 2024 she had issues accessing her online banking and was therefore unable to make her credit card payment in time. So she would like the interest refunded.

Nationwide didn't uphold the complaint. They said Mrs D had provided M with her card details. Although she had said she didn't respond to the messages she received asking for her approval Nationwide explained these transactions hadn't debited her account.

Nationwide also explained a claim with M would be unsuccessful as Mrs D confirmed her son had carried out the transactions and in these circumstances it wouldn't be classified as fraud.

Nationwide didn't refund Mrs D with the interest applied to her account as there was no evidence of system issues at their end. They noticed Mrs D had used her banking app on 4 January but didn't attempt to make a payment. And in any event there were other ways Mrs D could have made the payment to her account.

Nationwide apologised for the delay in investigating her complaint and said they'd paid £50 into a separate account Mrs D held with Nationwide.

Our investigator concluded the payments to M were authorised as although Mrs D's subscription was cancelled, she would've also needed to cancel card details with M so no further payments were made but this wasn't done by Mrs D. Our investigator acknowledged the alerts Mrs D received regarding the transactions, but these didn't require approval as Mrs D had already provided her card details to M.

In terms of the interest Mrs D had been charged on her credit card, our investigator didn't

uphold this aspect of the complaint either. Our investigator said she could see Mrs D logged on to the app on 4 and 7 January 2024 but didn't make any attempts to pay until 8 January – and the payment was due on 5 January 2024. Our investigator said there were no known issues with Nationwide's online banking, this could have been a local issue with her internet provider and Mrs D could have paid another way so she thought Mrs D should be held liable for the interest.

Mrs D didn't agree. She said she'd sent proof the service was down when she tried to access the app and asked whether we were just taking Nationwide's word for it that there were no issues with the service on that day.

She also said there is no option listed on Nationwide's website to pay over the phone and the only option to pay the credit card within one working day (which is the time she had left to make the payment on time) was using the internet or banking app.

Mrs D maintained the alerts she received from M were not just notifications, they requested verification and as these had expired without being approved, they should not have gone through.

As Mrs D continued to disagree, she asked for an ombudsman's review so the complaint was passed to me to consider. I issued a provisional decision, and I've included an extract of this below.

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

I have noticed Mrs D experienced further fraud around June 2023 which hasn't been considered as part of this complaint so I have therefore only looked at the transactions to M and the interest charge.

The disputed transactions

The relevant regulations here – the Payment Services Regulations 2017 – say that generally a consumer won't be held liable for any transactions made on their account that they didn't authorise, except in limited circumstances. In this case the most important question I need to answer is whether I think it's more likely than not Mrs D carried out the transactions.

Nationwide's internal records show there was an additional card holder on Mrs D's credit card account but Mrs D has said her card details were previously added to M so I think it's more likely than not that it was Mrs D's card that had been used. Given what we know about the nature of M and that Mrs D has confirmed the transactions were in relation to gaming, it would seem that the transactions were made online using the card details that had been stored.

Mrs D initially told our service that she had cancelled the subscription with M in November 2022, prior to the disputed transactions – and provided a screenshot to support this. I don't doubt the evidence Mrs D provided but Mrs D's statements show from January 2023 there were monthly payments to M which were described as being a subscription. Having looked into this further, it seems that the subscription was actually upgraded to the premium level and Mrs D's card details were kept on the device to fund this. This leads me to believe the card details were stored with M – most importantly prior to the disputed transactions taking place.

When our investigator questioned Mrs D about this further she explained her son had gift cards for his birthday that he subscribed to games passes in 2023 for a period of time. But

she didn't specifically confirm that her card details had been added in 2023. However, I notice Mrs D hasn't disputed the subscription transactions so I have assumed they are genuine and that Mrs D agreed to them. It follows that I think it's more likely than not Mrs D's card had been stored on the device in the run up to the disputed transactions and that she'd agreed to this.

Although the card details had been stored mainly for the purposes of paying the monthly subscription fees, in reality this meant Mrs D's son had access to her card details and this enabled the further spending to take place albeit without Mrs D's knowledge. So it follows that I think Mrs D's son had authority from Mrs D to use the card.

I fully appreciate this may not have been something that would have occurred to Mrs D, and I recognise she may have been under the understanding her card details were just to make the monthly payments so it might not have occurred to her that her card details were known and open to be continued for use so she has my sympathies here.

The authority that Mrs D's son had could have been withdrawn at any time by Mrs D. But I don't think this happened here. I say this because our service asked Mrs D whether there was any additional security measures in place and she said there wasn't other than the security measures she thought was in place with her card.

I appreciate Mrs D might have been of the understanding that the three digits on the back of the card (CVV) may have been needed for each of the transactions. Unfortunately Nationwide haven't been able to provide records to confirm whether this was entered for the transactions. But CVV codes aren't required for all credit card transactions as some merchants don't request them. So I don't think this on its own meant that Mrs D put in place sufficient measures to prevent her card from being used by her son.

Furthermore Mrs D has said her son didn't have the CVV so wouldn't have been able to authorise the transactions himself – this gives further weight to the suggestion that the CVV may not have been required for the transactions to M that are in dispute and therefore there wasn't any additional security measures in place for each transaction.

Mrs D has said she checks to ensure her card details are removed if they've been used but she's said she has done this since the incidents of unauthorised transactions and she's since not had a problem. I do appreciate Mrs D's son now uses gift cards or his own debit card to fund any transactions to M, but this has only been in place after the disputed transactions. So it follows that I don't think Mrs D put anything in place to prevent her son from using her card to carry out the transactions without her knowledge prior to them taking place.

And there is no evidence to suggest Mrs D removed the authority prior to the transactions taking place. I say this because she seems to have kept card details on the device so that the subscription could be paid, and seems not to have removed the card details at any stage prior to the disputed transactions.

So taking everything into account I think Mrs D's son had Mrs D's authority to carry out the transactions and therefore I think they were authorised. Mrs D has confirmed three transactions that were made to M were refunded but I don't think Nationwide need to refund the remaining disputed transactions for the reasons outlined above.

Verification messages

Mrs D has provided screenshots from her phone to show that she received messages from Nationwide requesting verification for a large number of transactions to M. She said as these messages expired, she hadn't given her authority, and so they shouldn't have been

approved.

However, I have noted that not all the screenshots Mrs D has provided state the messages have 'expired' as some of the messages just refer to them as being 'verification messages' so I don't think this is as persuasive as Mrs D may think.

Nationwide said in their final response letter that the messages she'd received which had expired did not correlate with the transactions that had been debited from her account – in other words, these transactions were not approved and didn't debit her account.

I asked Nationwide for their internal records showing the finer details of each of the transactions such as the date and times these were made so that I could cross reference these against the messages Mrs D received asking for her verification.

However, Nationwide explained due to the passage of time they were unable to provide this information. They re-iterated their previous response which was that the transactions on the verification messages haven't debited the account so were therefore not successful. They also said the screenshots themselves show the payments haven't been verified.

Without this information it's difficult to know with certainty whether Nationwide's stance is correct so I've looked at what I think is most likely to have happened. I find it's more likely than not that if a payment required verification via a text message, and that verification wasn't provided, then the payment wouldn't have gone through.

On one of the screenshots Mrs D provided with the messages there is the heading "expired messages" and Nationwide have said this further indicates they haven't been verified, and is also supported by Mrs D's testimony which is that these were not approved and that they then expired. So it would seem less likely these would be processed without them being confirmed as genuine.

Having looked at the statements I can see that some payments for the same amount on the same day did debit the account matching the amounts on the messages Mrs D received (even if I take into account all of the messages for both the expired and verification messages). But this isn't the case for all of the messages she received. It would seem unusual for some transactions to be successful and for some to be unsuccessful if they all needed approval.

Although some of the amounts that were referred to in the messages match the transactions that debited the account I notice there were multiple transactions for the same amount (for example £7.19 and £10.79). So I don't think this necessarily means it was the same transaction that debited the account without approval. I think it's possible there were just multiple transactions for the same amount and the ones that debited were the ones that didn't require approval.

I'm also mindful that although some of the dates may appear to match – the date the payments debited the account may not have necessarily been the date the payment was made which would likely be the same date on the message asking Mrs D for approval. So again, this doesn't mean the same transaction that required approval debited the account.

I also notice Nationwide's internal records mention this has also been flagged to their IT department who confirmed Mrs D didn't reply to the messages and as she didn't reply therefore the transactions were rejected. So this gives further weight to Nationwide's position the transactions didn't debit.

Mrs D has shown us the verification process that would need to be completed to approve

each of the transactions. This suggests had the transactions been verified without Mrs D's knowledge her son would have needed to have access to Mrs D phone without her knowing on multiple occasions throughout this period. He would have needed to reply to the messages which says "is it you making this payment" and then he'd have needed to log on to Mrs D's banking app multiple times to approve the transactions.

Mrs D hasn't said her son would have access to all of the above without her knowing so as it stands, I don't think it's likely he would have been able to approve the messages without her realising.

Based on the evidence Mrs D provided, it seems she began receiving messages on 25 March until 10 April. She's confirmed she was aware of the messages as she said she either declined them or let them expire. But I think this put Mrs D on notice something wasn't quite right. I'm unsure why she didn't flag this with Nationwide immediately rather than allowing the messages to continue as she could have taken action such as contacting Nationwide or checking her account and then placing a block on it to prevent further transactions taking place, or she could have removed her card details with M, but this doesn't appear to have happened as the transactions continued.

Furthermore Mrs D's mobile log on history shows she logged on during this period when she was receiving messages to approve transactions. One screenshot Mrs D provided which is headed 'expired messages' shows requests to M on 10 April. Mrs D appears not to have logged on during this day but I can see that she did log in the following day on 11 April. So, had transactions debited which she hadn't agreed to, I would have expected Mrs D to raise this straight away rather than allowing them to continue to take place.

Our service asked Mrs D why she didn't contact Nationwide when she was receiving these messages especially as they took place over a prolonged period. Based on Nationwide's records it seems the first time Mrs D contacted Nationwide about the transactions may not have been until around May time, which also ties in with the date she's written on her complaint form. But if Nationwide has any evidence to the contrary I'd be grateful if they could provide this before I issue my final decision.

Mrs D says she was in discussions with M and did so immediately. Although Mrs D said she provided evidence of these discussions with M to our service I've not seen any evidence to show this but I am happy to look at this before I issue a final decision.

Mrs D says Nationwide should have intervened in the transactions especially as she declined some transactions and didn't reply to messages for other transactions. But the messages from Nationwide were a form of intervention and for reasons unknown, Mrs D seems to have ignored them and not raised the issue with Nationwide. And there isn't any evidence to show that she tried to stop further transactions from being made.

Nationwide have told our service they can't guarantee transactions will flag up if there have been payments attempted that didn't complete the full verification process. They also said ultimately Mrs D's son made these payments, so it wasn't fraud.

I don't think Nationwide's comments are unreasonable as Mrs D allowed the messages expire and she didn't take any action at the time they were received. And for the reasons outlined above I think Mrs D's son had Mrs D's authority to carry out the transactions so I think it's fair and reasonable that Nationwide have treated the payments that debited Mrs D's account as being authorised.

I have also taken into account Mrs D's account activity, the internal records provided by Nationwide and the messages Mrs D provided to see whether I think Nationwide ought to

have intervened but I don't think they've done anything wrong in this regard. I say this because the transactions were relatively low in value and although there were a number of transactions to M, these were spaced out over a prolonged period of time. And although there were attempted transactions I don't think this was sufficient enough to warrant further investigation from Nationwide as Mrs D appears to have let them time out. So I don't think Nationwide ought to have taken any further action during this time.

Taking everything into account I think the transactions that debited Mrs D's account are fairly and reasonably to be treated as having been authorised.

Section 75 and chargeback

Nationwide wrote to Mrs D to explain that they had reviewed her claim under the Visa claims resolution service but there was no basis for them to raise a claim against M. This is because Mrs D had explained it was her son who had made the payments which meant the transactions were authorised.

I should explain that in certain circumstances a lender may be able to raise a claim against the credit provider (in this case, Nationwide) under section 75 of the Consumer Credit Act 1974 for goods or services purchased over £100. A borrower may be able to raise such claim if there has been a breach of contract or misrepresentation by the supplier of goods or services (in this case, M).

I don't think Mrs D's case fits into the categories that section 75 are intended to cover (breach of contract or misrepresentation) as there appears to be no dispute that it wasn't Mrs D's son who'd used the card for online gaming and as Mrs D had (albeit unknowingly) paid for something which he had received as part of his gaming. So I therefore think this claim would likely be unsuccessful.

I don't think Mrs D would be covered by section 75 in any event as each item purchased to M was less than £100, and as explained above there are financial limits if a borrower wishes to raise a claim under section 75. So I think it's possible a claim may have also been rejected for this reason.

I have also thought about whether Mrs D would have been covered by a chargeback. I should explain a chargeback is the process by which payment settlement disputes are resolved between card issuers and merchants, under the relevant card scheme rules.

Although chargeback rights aren't enshrined in law; they are voluntary schemes set up by each card scheme, with the rules determined by each. What this means is that Nationwide can in certain circumstances ask the merchant for a payment made to be refunded – although a chargeback isn't guaranteed to result in a refund.

Having considered the circumstances of the case and the reasons a chargeback can be raised, I don't think Mr D's chargeback claim would have likely succeeded. I say this because the Visa rules covers circumstances such as when the goods haven't arrived or were faulty or if M processed the payment twice etc. But I don't think the reasons set out in the codes apply to the circumstances in this case and there is no dispute that the goods that were paid for weren't received.

In addition to this, Mrs D had already approached M to see whether they'd be prepared to refund the transactions. Although they agreed to refund three transactions, they declined to refund any more. Given that Mrs D had already been unsuccessful in her attempts, I think it gives further weight to suggest a chargeback claim would have been successful.

The interest charged

Mrs D has also complained that she was unable to make her credit card payment on 5 January 2024 when it fell due because of issues accessing her online banking. As a result she incurred interest which she'd like refunded.

Unfortunately, Nationwide haven't been able to provide further evidence to confirm there were no known technical issues on 5 January 2024, but I have taken into account their testimony.

I've also taken into account Mrs D's testimony and the screenshots Mrs D provided to our service which she says showed there was a technical issue when she was accessing her online banking – although I've noted this evidence doesn't show the date. However, this suggested restarting the app or checking Nationwide's service availability page for more information.

A further screenshot provided by Mrs D has a heading "service status" and says Nationwide are committed to providing the best customer service and that although their system may need work they'll always try to minimise disruption. Underneath this there is a tick and it says Nationwide's services are working normally. This also supports Nationwide's testimony that there were no known service issues at the time. So I think it's quite possible that this could have been an issue at Mrs D's end rather than Nationwide's.

But even if this was an issue with Nationwide, I don't think this means Mrs D shouldn't be held liable for the interest. I say this because Nationwide's records show Mrs D had been able to log on to her online banking on 4 and 7 January 2024 but she didn't make a payment until 8 January 2024. Had Mrs D made a payment on 4 January she may have been able to avoid the charge.

In her email to Nationwide dated 15 February 2024 Mrs D explained she'd tried to make the payment on 4 January but was unable to do so. However, as I've explained above Nationwide's internal records show she was able to log in on this day so it does seem she was able to access her banking at this point, and it's unclear why she was unable to make the payment online or use a different payment method so that it was received in time by Nationwide.

Mrs D said there is no option listed on Nationwide's website to pay over the phone and the only option to pay the credit card within one working day (which is the time she had left) was using the internet or banking app. I can see Nationwide's statements detail the various payment methods and that Mrs D could have taken other steps such as paying in by cash at branch.

Moreover, it is ultimately the responsibility of the account holder to ensure funds are paid in time to avoid interest charges. And if the payment method Mrs D wanted to use wouldn't have credited her account on time, it would have been up to her to make the payment earlier. Or she might have considered phoning Nationwide to let them know of the issue. So taking into account everything above, I don't think Nationwide were wrong to apply the interest to Mrs D's account for the late payment.

Service provided

Nationwide apologised to Mrs D that her complaint wasn't logged properly when she contacted them on 14 December 2023 regarding the disputed transactions, and this meant they'd delayed their investigations until Mrs D contacted them again on 11 January 2024 regarding the missed payment.

I can appreciate this must have been frustrating for Mrs D but overall I don't think this caused too much of an impact on Mrs D as she already knew Nationwide's stance regarding her fraud claim and Nationwide issued their final response addressing both the fraud claim and missed payment on 26 January 2024."

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.

Nationwide replied to say that they had nothing further to add in response to my provisional decision. We didn't receive a response from Mrs D.

As neither party have added anything further in response to my provisional decision, I see no reason to depart from those findings. As such it follows that I do not uphold this complaint for the reasons I set out in my provisional decision.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 27 December 2024.

Marie Camenzuli
Ombudsman