

complaint

Mr and Mrs K complain about a number of disputed transactions on their joint account and that Nationwide Building Society didn't process a chargeback on the transactions.

background

Around 2012 a significant number of debit card transactions were made on Mr and Mrs K's current account to online gambling accounts. The total amount of the transactions was in excess of £40,000. Mr and Mrs K say they didn't make the transactions and think Nationwide should have done more at the time by raising a chargeback.

Nationwide says that it has no record of Mr and Mrs K requesting a chargeback and even if it had, it didn't think it would have been successful.

The investigator who considered the complaint explained that he didn't think there was enough evidence to demonstrate Mr and Mrs K actually asked for a chargeback at the time. And having considered what Nationwide had provided, even if a chargeback had been attempted he didn't think it would have been successful.

Mr and Mrs K were unhappy with the investigator's conclusions so the complaint has been referred to me for a final decision.

I am aware that Mr and Mrs K previously had a complaint considered by our service in relation to the transactions on the account. The ombudsman set out his final decision on that case, which dealt with the issue around whether or not the transactions were authorised. As already set out to Mr and Mrs K, I shall not be reconsidering that decision or commenting further on it. My decision will only focus on the current issues that have been raised more recently around chargeback.

my findings

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 my decision will come as further disappointment to Mr and Mrs K as I have come to the same overall conclusions as the investigator, for what are broadly the same reasons.

Mr and Mrs K say they ask Nationwide, through a letter, to raise a chargeback around the time of the disputed transactions. Nationwide says that it didn't however receive any request from Mr and Mrs K relating to a chargeback so didn't attempt a chargeback at the time.

The transactions relating to this dispute happened around 2012 and I can understand why Mr and Mrs K may not therefore have a copy of the letter they say was sent to Nationwide. Even if there was a copy this doesn't however mean it was received by Nationwide. Nationwide says it has no record of receiving the chargeback request and although I note what Mr and Mrs K have said about this, I've seen nothing to suggest that Nationwide has been anything other than honest about this.

I also think it's worth noting that I haven't seen any mention of chargeback in the earlier correspondence from around the time of the transactions in 2012. Nor was it actually mentioned initially when Mr and Mrs K raised this dispute more recently. The original complaint raised under this case was relating to a claim under Section 75 of the Consumer

Credit Act and it appears that chargeback was only mentioned after it was apparent that Section 75 didn't apply to these transactions.

Having considered all of the submissions from the parties in this case I'm not persuaded that Mr and Mrs K did actually send the letter requesting a chargeback to Nationwide. The evidence in this case appears to contradict Mr and Mrs K's recollection of whether they sent a letter around 2012. Even if it was sent, I'm satisfied there is nothing to indicate it was received by Nationwide. Because of this I don't think Nationwide have acted unreasonably by not attempting the chargeback.

Even if a chargeback was attempted at the time, I have seen some correspondence between Nationwide and the merchant (the retailer) and I think it's more likely than not that any chargeback attempt would have been defended and ultimately unsuccessful.

There are time limits for making a chargeback claim and it would not now be possible for Nationwide to make a chargeback.

While I again realise Mr and Mrs K will be unhappy with my decision, I don't think Nationwide has been unreasonable or treated them unfairly in relation to the chargeback issues.

my final decision

My final decision is that I do not uphold Mr and Mrs K's complaint against Nationwide Building Society. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs K to accept or reject my decision before 9 October 2019.

Mr and Mrs K have said that they may consider taking legal action against Nationwide. If they do not accept my decision here they will be free to continue their dispute through the courts.

Mark Hollands
ombudsman