

## **The complaint**

Mr and Mrs C are unhappy Nationwide Building Society won't reimburse them in full for the money they lost when they fell victim to a scam.

## **What happened**

Mr and Mrs C fell victim to a safe account scam. After Mr C's details were compromised via a phishing text, he was contacted by individuals claiming to be from his credit card provider and from Nationwide.

Mr C says he was told that his accounts were at risk and that he needed to move his money into an account he held with an e-money provider (which I'll call "R") and then from there on to an account belonging to a third party, who he was told was the branch manager at Nationwide. Mr C was then encouraged to also tell Mrs C to transfer her funds from her sole accounts with Nationwide to Mr C's account with R and then on to the third party. Unfortunately, and unknown to him at the time, Mr C was actually speaking with fraudsters.

Believing that he was genuinely dealing with legitimate banking institutions, Mr C ended up moving significant funds from he and Mrs C's joint account to his account with R and on to the scammer. Mrs C also made significant payments from her sole accounts with Nationwide. In total, Mr and Mrs C transferred over £64,000. £53,800 of this was lost from the joint account that is the subject of this complaint.

Mr C realised they had been the victim of a scam later that day, and immediately reported the matter to Nationwide (and to R) to see if it could help stop the payments or recover their funds. Nationwide logged the fraud and contacted R, to see if any funds remained that could be recovered. But ultimately Nationwide did not feel the payments were unusual enough to have been flagged for further checks, and in any case considered that the loss had been from Mr C's account with R, and so felt R should bear responsibility for that loss. Nationwide did though pay Mr and Mrs C £100 to recognise that there had been delays in its complaint process.

Unhappy, Mr and Mrs C referred the matter to our service. One of our Investigators looked into the complaint. Overall, they considered that while Mr C had authorised the transfers (albeit as a result of a scam) Nationwide should have done more to intervene on the third transfer. They felt Nationwide should have contacted Mr C directly to ask some questions about what was going on, and considered that, had Nationwide done so, it was more likely than not the scam would've unravelled, and the loss from that point on would've been prevented. Our Investigator also considered that Mr and Mrs C weren't partly to blame and shouldn't bear any responsibility for the loss from that third payment onwards.

However, our Investigator also noted that R had agreed to refund £48,514.03 to Mr C. And given that this refund was more than the value of the loss incurred from the third payment onwards, the Investigator did not recommend that Nationwide make any further refund.

Nationwide accepted the Investigators findings, but Mr and Mrs C disagreed. So as no agreement could be reached this case has been passed to me for review.

## **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 I've reached the same conclusions as our Investigator, and for largely the same reasons.

Firstly, I'd like to make it clear that this complaint relates only to Mr and Mrs C's joint account. I will refer to Mrs C's sole accounts for context, but am not making any findings regarding Nationwide's actions relating to Mrs C's sole accounts.

It's not disputed that Mr C authorised the payments from he and Mrs C's joint account that are in dispute here. So as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Mr and Mrs C are responsible for them. That remains the case even though Mr C was the unfortunate victim of a scam.

Because of this, Mr and Mrs C are not automatically entitled to a refund. But the regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams.

Taking the above into consideration, I need to decide whether Nationwide acted fairly and reasonably in its dealings with Mr and Mrs C, or whether it should have done more than it did.

I acknowledge that the first two payments made as part of the scam were relatively big, but they were to an account with a legitimate banking institution in Mr C's own name, so I don't think it was until the pattern of several large payments in a short space of time began to emerge that I would expect Nationwide to have stepped in. I therefore agree with our Investigator's finding that, by the time Mr C attempted to make the third payment to his account with R, Nationwide should have been on notice that something potentially untoward was going on, and so should have contacted Mr C to get to the bottom of what was happening.

I've thought carefully about what would've happened had Nationwide insisted on direct contact with Mr C before processing any further payments. There's obviously a balance to strike, but Nationwide ought fairly and reasonably to have satisfied itself that Mr C hadn't fallen victim to a scam, and I'm persuaded it could've done this by asking a few open-ended questions of Mr C prior to processing any further payments.

Mr C doesn't appear to have been given a cover story to use by the scammer, so I think he would likely have explained what was happening, and I consider it likely that the spell of the scam would then have been broken and that Mr C wouldn't have proceeded with the payments. So I think Nationwide could have prevented the losses Mr C incurred from the third payment onwards.

Given that finding, I would usually recommend that Nationwide refund all the payments made from the joint account from the third payment onwards – a refund of £33,900. But Mr C has already received a refund in excess of that amount direct from R. The refund provided by R is, in fact, high enough to cover all the payments made from the joint account from the third payment onwards, *and* Mrs C's payments from her own account, plus a bit extra.

On this basis, I don't consider it would be reasonable to ask Nationwide to refund any of Mr and Mrs C's losses as R's refund already covers the loss from the joint account from the third payment onwards, and I don't consider Nationwide has any obligation to refund the first two payments for the reasons set out above.

I know this will be very disappointing for Mr and Mrs C, as it's clear they feel very strongly that Nationwide should bear some responsibility for what has happened, but I hope they will understand the reasons for my decision.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C and Mr C to accept or reject my decision before 28 December 2023.

Sophie Mitchell  
**Ombudsman**