

The complaint

Mr D complains that Nationwide Building Society won't reimburse money he lost as a result of a scam.

What happened

Mr D fell victim to an impersonation scam. He was contacted by someone claiming to represent a bank which he holds an account with (that I'll call C). He was told that his account was at risk. After apparently securing his account with C, he was told that his account with Nationwide was also at risk. He was transferred to someone claiming to represent Nationwide.

The caller said that he'd need to move money to a new secure account. He initially tried to move his money directly from Nationwide to C, but was unable to do so because he lacked a card reader. As an alternative, he was advised to open an account with another firm (that I'll call R) and move his money into that account instead. Mr D moved £2,000 from his account at Nationwide to his new account at R. He did this by way of a card payment using Apple Pay.

He was then instructed to move £2,000 from his account at R to what he believed was a secure account at Nationwide. Unfortunately for Mr D, he'd been speaking to a fraudster and he hadn't sent money to his own account, but one that the fraudster presumably controlled.

Mr D became concerned at being asked not to disclose the situation to friends or family, so he contacted his mother (who represents him in this complaint). She thought that he'd been the victim of a scam and advised him to contact the various firms involved.

Both R and Nationwide said that they weren't responsible for his loss. Nationwide said that the loss had occurred from his account at R, so he should contact it to recover his funds.

Mr D complained. He referenced various codes of practice, including the Lending Standards Board's Contingent Reimbursement Model Code ("CRM Code"), and argued that Nationwide had not done enough to protect him from financial harm, particularly considering his young age.

Mr D referred the matter to our service, but one of our Investigators didn't uphold his complaint. They didn't think that Nationwide could have reasonably suspected that Mr D was falling victim to a scam.

Mr D's representative didn't agree. She thought that Nationwide should have been extra vigilant for the risk of fraud, given Mr D's young age, and she couldn't understand how the caller knew so much information about him.

As no agreement could be reached, the case was passed to me for a final 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.

I'm very sorry to hear about what's happened to Mr D. He's been the victim of a cruel scam and I can only imagine how upsetting this has been for him. But I'm afraid that I'm unable to hold Nationwide responsible for his loss. I'll explain why.

Under the relevant regulations, the Payment Services Regulations 2017, Mr D is responsible for payments he's authorised himself. There's no dispute about that here.

Nationwide are signatories to the CRM Code, but unfortunately for Mr D, the CRM Code does not cover all payment types and journeys. It excludes card payments (like this one) and payments made to a customer's own account. So, I can't apply the provisions of the CRM Code to this complaint.

Instead, taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, Nationwide should fairly and reasonably have been on the lookout for out of character and unusual transactions or other indications that its customer might be at risk of financial harm from fraud.

I'm afraid that, even taking into account Mr D's relatively young age, I don't think Nationwide should have recognised that Mr D was at risk of financial harm from fraud.

Mr D made a single payment of £2,000 using his registered device. While I recognise that the amount of the payment was somewhat unusual for Mr D (though he had made similarly sized or larger transfers in the previous year, albeit seemingly to an established payee, likely his own account), the payment did not drain his account (the balance was more than £4,000 after the payment was made) and while the value of the payment is clearly hugely significant to Mr D, I can't see that it would have stood out – such that the amount alone would have caused Nationwide significant concern.

Overall, I cannot fairly and reasonably say that Nationwide should have been sufficiently concerned about this payment that it ought to have intervened and discussed the payment with Mr D before it was processed.

Finally, I've considered Nationwide's attempts to recover Mr D's money. It isn't disputed that from R, Mr D's money was sent to another account, presumably controlled by the fraudster. R hasn't been able to recover his money, so it follows that neither could Nationwide. And, a dispute through the chargeback scheme (which allows card payments to be disputed in some circumstances) would not have been successful as R deposited money into Mr D's account as instructed and therefore provided the service that Mr D requested.

I know this will be very disappointing for Mr D and it's important to state that he is not to blame for what happened. He was the innocent victim of a sophisticated scam – seemingly one in which a significant amount of his personal information was known to the fraudsters. But I can't take that into account here, I can only consider the role of Nationwide. And, I can't fairly say that it is responsible for his loss.

My final decision

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 27 December 2023.

Rich Drury
Ombudsman