

The complaint

Mr B complains Nationwide Building Society (“NBS”) blocked and later closed his account once it had spoken to him about a payment he’d made.

What happened

On 9 September 2022, Mr B made a payment of 1pence with the reference ‘Cuba’. Mr B says this was a tester payment before he sent a larger payment to a humanitarian organisation based in Belgium.

NBS restricted Mr B’s account and called him a few days later after the 1pence payment. NBS say this was to carry out Enhanced Due Diligence. Mr B says he was told this call was a ‘routine account review’, but he was asked specific questions about the transaction. Mr B says he told NBS’s agent he always made tester payments in this way and the call was courteous.

Two days later, on 16 September 2022, NBS emailed Mr B and informed him it had closed his account after its review. NBS also told Mr B he could take his money out in branch after three days.

Mr B says this led to him having to make up payment shortfalls on direct debit payments that were due and losing out on a £175 incentive from the bank he was switching to. He adds the situation caused him significant distress for having to change his regular payments, and that one payment bounced.

Unhappy Mr B complained. NBS sent Mr B a final response and didn’t uphold his complaint. In summary, some of the key points it made were:

- NBS’ review team called Mr B on 14 September 2022 and asked appropriate authentication questions
- The criteria for account reviews are business sensitive and cannot be disclosed
- NBS sent an email on 16 September 2022 confirming the closure of the account

One of our Investigator’s looked into Mr B’s complaint, and they didn’t recommend the complaint be upheld. In summary, the key findings they made were:

- NBS were acting in line with its legal and regulatory obligations when restricting and closing Mr B’s account in the way it did
- The account was blocked when Mr B was moving his account and looking to use the Current Account Switching Service (CASS). And had this gone through he would’ve received £175 joining bonus with his new bank. But as the account was blocked by NBS, this switch couldn’t be completed, and the bonus wasn’t paid
- NBS discussed Mr B’s account with him in line with section 26 of its terms and

conditions. NBS weren't satisfied with the responses it received. So NBS decided to end its relationship with Mr B, which is permitted under section 78 of the terms

- As NBS acted in line with its terms and conditions, which Mr B had agreed with when opening the account, it can't be held responsible for any loss or inconvenience he suffered

Mr B didn't agree with what our Investigator said. He says that NBS are upholding and acting on US sanctions, and embargos its placed upon Cuba. Mr B adds that this is a direct violation of several UK and EU laws and regulations.

Mr B has also pointed to a Parliament order and the UK Protection of Trading Interests Act 1980. Mr B says that based on this NBS has broken UK and EU laws by putting Cuba on its sanction list. He also questions why a payment made to a Belgium financial institution was reviewed in this way.

Our Investigator considered what Mr B said. They made several points in response. Some of the key one's they made were:

- The reasons Mr B's account was restricted was that NBS were investigating whether the transaction could breach any applicable sanctions. No finding has been made to say it breached US sanctions
- The subsequent closure of the account was triggered by Mr B's refusal to answer questions he was asked when NBS called him to discuss the transfer
- A financial business must accept any consequence of breaching sanctions, so it would be inappropriate for our service to say they should or shouldn't review a transaction to ensure they're being complaint with the law. This service can look at how the review is conducted to ensure NBS acted reasonably
- As is his right, Mr B decided not to answer NBS' questions. But because of this NBS was entitled to inhibit the account until which time it could be sure carrying out Mr B's instructions wouldn't cause it to carry out a prohibited act
- There are numerous websites devoted to reducing or eliminating the impact of US sanctions on Cuba. Mr B's responses appear similar to instructions on those websites, and therein appear to want to provoke a reaction

Mr B did not agree and asked for someone else to determine his complaint. It follows that the complaint has now been passed to me to decide.

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 decided not to uphold this complaint. I'll explain why.

Financial businesses, like NBS, in the UK are strictly regulated and must take certain actions in order to meet their legal and regulatory obligations. They are also required to carry out ongoing monitoring of an existing business relationship. That sometimes means they need to restrict, or in some cases go as far as closing, customers' accounts.

NBS called Mr B after it restricted his account to carry out a review. This involved asking him

about his 1p payment to a Belgian organisation with the reference 'Cuba'. NBS' internal notes show Mr B said he authorised the payment, knew about it, and did not want to clarify why he sent it. As Mr B hasn't contested that he declined to answer these questions, I'm satisfied that is what happened.

NBS must comply with wide ranging legal and regulatory obligations ranging from those to prevent financial crime and international sanctions. Mr B argues that as a UK financial institution, NBS has no legal obligation to adhere to a US sanction.

But that isn't the question I must address here. Given the nature of the transaction, NBS needed to ask Mr B questions as part of its due diligence to understand if the payment did in fact engage any sanctions it might need to consider. But by failing to answer its question about the intended purpose, NBS couldn't do this.

Section 28 of NBS' account terms and conditions says:

"From time to time, we may ask you to provide us with information to help us meet our anti-money laundering, financial crime, sanctions and other legal and regulatory requirements. You must promptly provide any information requested. If you fail to provide this information when asked to, this may result in us delaying or refusing to process your payments or blocking all access to your account. We will not be responsible for any losses which may result"

Mr B agreed to these terms when he opened the account. And I've already said that Mr B's refusal to answer NBS' questions meant it couldn't carry out the checks it needed to make sure it wasn't contravening any of its obligations.

The terms of the account also allow NBS to close an account with less than two months' notice when it can reasonably consider it may be exposed to action from any government, Regulator, or law enforcement agency.

As NBS weren't able to do this, I don't think it's done anything wrong by closing the account in the way it has. Mr B may argue sanctions related to Cuba shouldn't even be a consideration for NBS. But international sanctions are complex and it's not always clear if they are engaged without understanding the purpose and destination of a transaction that requires such consideration.

Mr B may or may not be involved with raising awareness about Cuban restrictions, but that isn't something I think is significantly material to my decision. My role here is to decide complaints on their individual merits, and importantly whether I think NBS has done anything wrong by restricting and closing Mr B's account. For the reasons above, I'm persuaded it hasn't done anything wrong.

Mr B says this matter has caused him financial loss, trouble and upset. I do accept NBS' actions would've caused him difficulty. And I have no reason to question that he missed out on a £175 bonus through not being able to use the CASS service due to NBS restricting and closing his account.

But having looked at what's happened in this particular case, I can see no basis on which I might make an award against NBS given that I don't think it's done anything improper. So I'm not going to ask NBS to compensate Mr B for any financial loss, trouble, and upset this may have caused.

My final decision

For the reasons above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 December 2023.

Ketan Nagla
Ombudsman