

## The complaint

Mr D complained because National Westminster Bank Plc refused to refund him for transactions he said he hadn't made. He also complained about customer service issues relating to his complaint.

## What happened

On 16 December, Mr D contacted NatWest to dispute a number of transactions which had taken place on the night of 15 - 16 December 2023. There were 13 disputed transactions to a number of bars and other merchants, using Mr D's card and PIN. The total was £1,038.30. Mr D told NatWest that he'd lost his card and phone in the city centre after going to a pub.

NatWest issued Mr D with a replacement debit card, but it refused to refund Mr D for the disputed transactions. It wrote to him on 23 December and said that it could see that Mr D's PIN had been entered correctly on the first attempt, so the person making the transactions knew Mr D's PIN. NatWest also said that it could see that Mr D had previously used the merchant, and also the transactions didn't show any of the typical patterns of fraud that NatWest would expect to have seen. So it refused to refund him.

Mr D complained, both about not receiving a refund, and about the time taken for an outcome. NatWest replied on 30 December. It said it had identified several factors which showed the transactions weren't fraudulent, because the pattern wasn't what NatWest would expect from an opportunistic fraudster. It explained that for security reasons, it wasn't able to tell Mr D exactly what it took into consideration in reaching the decision. In relation to the time taken, NatWest said that Mr D had contacted the bank on 16<sup>th</sup>, and had been told the outcome could take up to 5 working days. NatWest had sent the reply on 23 December.

Mr D didn't accept this. He said that he'd been told on 18 December that his mobile number had been updated and he'd have to wait 72 hours before accessing his account, which he said hadn't been actioned. He also said he'd made multiple calls for support accessing his account and hadn't received the support he expected.

NatWest replied that it had no record of a call on 18 December, but in a call on 17 December, Mr D had said he needed to update his mobile number, but the conversation had then moved on to discussing making a payment and the call then ended. The call hadn't said the number had been updated and he'd have to wait 72 hours to access his account. NatWest said the number had been successfully updated on 5 January 2024. NatWest also looked at the calls between 16 and 28 December, a number of which were about making a payment, or asking about the fraud claim outcome. NatWest said it could find no calls where promises had been made and not followed up. So NatWest didn't uphold Mr D's complaints.

Mr D wasn't satisfied and contacted this service.

Our investigator didn't uphold Mr D's complaint. She said that in between the disputed transactions there were others which hadn't been disputed – and it wasn't clear how Mr D could have authorised these if he'd lost his phone and card earlier in the evening. There had also been undisputed transactions after the last disputed one which had happened at

1.30am on 16 December. The investigator also said that even if a fraudster had obtained Mr D's card and PIN, usually a fraudster would withdraw all available funds immediately.

In relation to the part of Mr D's complaint that he hadn't been able to access his account, the investigator said she could see that Mr D had accessed his account online on several occasions. So she didn't agree that NatWest hadn't given Mr D access and he couldn't use it.

So the investigator concluded that she couldn't see how a third party could have made the disputed withdrawals without Mr D's knowledge. He also hadn't reported the loss of his card and phone till the next day, which would have prevented the risk.

Mr D wasn't satisfied. He said he'd lost his phone later in the evening, and all banks were closed in the early hours which was when he realised he'd lost his phone. He said the investigator hadn't proved he authorised the transactions, and she hadn't looked into it fully. He asked for an ombudsman's 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.

There are regulations which govern disputed transactions, and that's what determines the outcome here. The relevant regulations here are the Payment Services Regulations 2017. In general terms, the bank is liable if the customer didn't authorise the payments, and the customer is liable if they did authorise them.

The regulations also say that account holders can still be liable for unauthorised payments under certain circumstances – for example if they've failed to keep their details secure to such an extent that it can be termed "*gross negligence*."

So I've considered whether it's more likely than not that Mr D, or a third party unknown to him, carried out the disputed transactions.

I've looked carefully at the computer evidence about the disputed and undisputed transactions. The computer records show that Mr D's genuine debit card, with its chip, was used for the disputed transactions. And Mr D's correct PIN was used. Mr D said he hadn't written down or disclosed his PIN. But there are 10,000 possible combinations of a four-digit number. So it's most unlikely that any third party fraudster could have guessed the correct PIN.

The computer evidence shows that Mr D only disputed some of the transactions which were carried out on the night of 15-16 December 2023 – in other words, there are undisputed transactions in between the disputed ones. These too were carried out using the genuine card and the correct PIN. I can't see how Mr D could have carried out some genuine transactions during this time, if a third party fraudster had stolen his card and was using it for the disputed transactions.

NatWest refused to tell Mr D what details it took into account when assessing a claim of fraud. It was entitled to tell Mr D this, and for security reasons it didn't have to disclose its reasons. I've looked at what NatWest told us, and I'm satisfied that the factors it took into account were fair and reasonable.

I've also borne in mind when Mr D told NatWest that he'd lost his card and phone. He said the banks were all closed in the early hours when he realised he'd lost his phone. I don't

accept this as a reason for not reporting the loss straightaway. Banks, including NatWest, have a 24 hour phone line for fraud reporting. Mr D said he'd lost his phone as well as his card, but I'm sure he could have asked someone else if he could use their phone for a free call to NatWest's fraud reporting in these circumstances.

Taking all these factors into account, I consider it's more likely than not that Mr D carried out the disputed transactions himself. This means NatWest doesn't have to refund him.

Finally, I've considered Mr D's other complaints about customer service. I find that the time NatWest took to respond was fair and reasonable. He contacted NatWest on 16 December. The decision was taken and the outcome sent to Mr D on 23 December. It was sent as a letter because NatWest couldn't contact Mr D by phone.

Mr D also told our investigator, in early February 2024, that he still couldn't access his NatWest account online. But I have seen the computer records which show that Mr D accessed his account online multiple times at this time. I have also looked into Mr D's other customer service complaints, and I'm not persuaded that NatWest acted unfairly or unreasonably in any of these.

So I don't uphold Mr D's complaints about NatWest's customer service.

### **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 Mr D to accept or reject my decision before 13 June 2024.

Belinda Knight  
**Ombudsman**