

The complaint

Mr A complains that National Westminster Bank Plc (“NatWest”) is refusing to refund him the amount he lost as the result of a scam.

Mr A is being represented by a third party. To keep things simple, I will refer to Mr A throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won’t repeat what happened in detail.

However, in summary, in 2021 Mr A saw posts on a well-known social media site from a friend that I will call B about his trading company that I will call X.

B convinced Mr A to let X trade on his behalf in return for him paying a monthly fee based on the profits that X made for him.

Mr A made a number of transactions from his NatWest account to trading platforms using his debit card.

Mr A made several withdrawals from the crypto exchanges until on 13 March 2023 all of the balances on all of the crypto exchanges became negative.

Mr A made the following transactions that I am considering in this decision. I note that there were other transactions but these have been resolved separately.

Number	Date	Merchant	Method	Amount
1	24 December 2021	Axicorp	Debit Card	£5,000
2	24 December 2021	Axicorp	Debit Card	£5,000
3	21 January 2022	Axicorp	Credit Back to account	£3,000
4	15 February 2022	Axicorp	Credit Back to account	£928.54
5	16 February 2022	Axicorp	Credit Back to account	£4,000
6	1 March 2022	Axicorp	Credit Back to account	£2,500
7	22 March 2022	Axicorp	Debit Card	£230
8	23 March 2022	Axicorp	Credit Back to account	£200
9	26 April 2022	Axicorp	Credit Back to account	£290.91
10	21 August 2022	Vantage	Debit Card	£8,000
11	21 August 2022	Eurotrader	Debit Card	£3,000

12	21 August 2022	Vantage	Debit Card	£4,000
13	28 November 2022	Eurotrader	Credit Back to account	£198.70
14	28 December 2022	Vantage	Credit Back to account	£30
15	2 February 2023	VTMarkets	Credit Back to account	£292
16	3 March 2023	VTMarkets	Credit Back to account	£53

Our Investigator looked into this matter, and they did not uphold this complaint. They thought that NatWest should have intervened twice once at transaction 2 and once at transaction 10. But as Mr A knew the scammer personally, the money was being sent to what appeared to be at the time legitimate trading platforms than NatWest would not have known that Mr A was being scammed and therefore the scam would not have been stopped. Mr A did not agree and therefore this complaint was passed to me to issue 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.

It isn't in dispute that Mr A authorised the disputed payments he made using his NatWest debit card to the trading platforms. The payments were requested by him using his legitimate security credentials provided by NatWest, and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.

However, I've considered whether NatWest should have done more as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transaction.

Firstly, I should explain that I have some doubts as to whether Mr A was scammed at all. The transactions and the pattern of transactions does not fit a usual scam. Mr A was allowed to withdraw almost all of the funds he initially deposited this seems rare and the scam carried on for much longer than a typical scam. He was also paying X for the profits that he was making on the trading platforms again which is unusual. The trading platforms that Mr A sent his funds to appear legitimate and whilst there are scam firms with similar names the links that Mr A provided to us direct to legitimate trading platforms and not the scam firms.

There is a FCA warning about X which was listed well after the transactions were made and this suggests that X was providing financial services without permission. So, it may be the case that X was a scam, but I can't see that any funds were sent directly to X. In fact it looks as if X traded for B on legitimate trading platforms they may have done so without the relevant FCA approval but this does not necessarily mean that they were scammers.

Even if X were scammers though, I don't think that NatWest should refund the transactions in question. I accept that NatWest should really have intervened on payment 2 and 10. But had it done so I don't think that the scam would have been unravelled or the payments stopped.

If NatWest had intervened during payment 2 and asked probing question it would have found out that Mr A was sending funds to what appears to be a legitimate trading platform on the advice of a friend that he personally knew and had met. It does not appear that the funds were intended to be sent on to X or that Remote access software was being used. So, I don't think that it would have been apparent to NatWest that this was a scam. I also don't think a general warning at this point would have stopped Mr A from continuing sending the funds to Axicorp as he clearly trusted B at this point,

In relation to transaction 10, had NatWest intervened I think that Mr A would have explained that he was investing on advice from a friend he had made significant withdrawals before and he was convinced that what he was doing was legitimate. He was also sending funds to firms that from what I can see are legitimate trading platforms. So, I don't think that it would have been apparent that Mr A was being scammed.

I have considered if a general warning given at this point would have dissuaded Mr A from carrying on with the scam. But in this specific case I don't think that it would. He trusted B enough to pay him for the profits that he had made and had made large withdrawals so I don't think that a general warning at transaction 10 would have stopped Mr A.

I note Mr A's representatives comments that finding investment advice via a hacked social media account had the hallmarks of a scam so had NatWest asked probing questions it would have uncovered the scam. But I don't think that it would have been obvious to NatWest that this had occurred. B is registered on companies house as the director of X, Mr A knew B personally and there were no warning about X at the time.

So overall I am of the opinion that NatWest should have intervened but had it done so I don't think the scam would have been stopped so I don't think that NatWest should refund the payments that were made.

I've also thought about whether NatWest could have recovered the funds via other means however, in this complaint NatWest was unable to process a chargeback for the payments Mr A made in relation to this scam. Let me explain why.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

The service provided by the trading platforms would have been to action the trades that Mr A requested. Therefore, it provided the service that was requested. So, I don't think that a chargeback would have been successful in this instance.

So overall, I'm sorry to hear of Mr A's loss but taking into consideration the circumstances of the complaint, I can't reasonably ask NatWest to refund him.

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 4 April 2024.

Charlie Newton
Ombudsman