

## **The complaint**

Mr C complains that National Westminster Bank Plc didn't do enough to prevent the loss he suffered when he sent a payment to one of its customer's accounts because of a scam.

Mr C has used a representative to bring his complaint, but for ease of reading, I'll mostly just refer to and will ascribe the representative's comments to Mr C.

## **What happened**

The background to this complaint is well known to both parties. So, I will keep my summary of what happened brief and focus on the reasons for my decision.

Mr C says he's fallen victim to an 'impersonation scam'. He was contacted via email by a self-claimed UK private banker who told him that he was the beneficiary of their deceased clients inheritance fund as he shared the same family name as them. Between April and May 2022 Mr C made four payments totalling over £54,000 to three different recipient accounts, with three different payment service providers (PSPs). At the time Mr C believed the payments he was making were towards legal fees and HMRC bills to release the inheritance money.

Relevant to this complaint is a payment of £25,940 which credited the NatWest account on 27 May 2022. The payment was sent from Mr C's account with his own bank which is based outside the UK.

In short, Mr C complained to NatWest that it had likely failed: to meet its obligations when allowing its customer's account to be opened; in its monitoring of the recipient account; and in its response when notified of the fraud. He asked that it refund his loss.

NatWest didn't uphold Mr C's complaint. It said it couldn't agree to a refund, nor could it disclose any information or details about the investigation it carried out. The matter was referred to our service. Our Investigator concluded as there had been no failure by NatWest which had resulted in a loss to Mr C it didn't need to do anything further to resolve his complaint. Mr C did not accept the Investigator's assessment and asked that an Ombudsman review the case.

## **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'm not upholding this complaint. I appreciate the outcome will be disappointing for Mr C, and I'm genuinely sorry to hear about his loss, but I can't fairly and reasonably ask NatWest to refund this. I'll explain why.

I think it's important for me to start by explaining that an account later found to have been utilised to receive fraudulently obtained funds doesn't automatically entitle the payer (victim) to a refund from the recipient PSP nor does it mean that the recipient PSP reasonably failed to prevent the loss. In circumstances such as these where Mr C has no direct relationship with NatWest, I can only ask it to refund Mr C's loss if I think it has failed in such a way that it can fairly and reasonably be concluded that its act or omission caused the loss.

With that in mind, I'm satisfied that NatWest carried out checks (in line with its regulatory obligations) to verify the identity of the named accountholder and did its due diligence when opening the recipient account. There was nothing at the time that I think reasonably could've alerted NatWest that the account it was opening would later be used to receive fraudulently obtained funds. So I don't think it missed an opportunity to prevent Mr C's loss when opening the account.

I understand given the sum involved why Mr C feels there has likely been a failure by NatWest in the monitoring of the recipient account. But when deciding such matters, it's not just about the size of a payment, I must also take into account other factors such as (and not limited to) whether the payment followed the recipient accountholders typical or expected account activity; whether it represented a sudden increase and significant change in the operation of the account; and/or if the pattern of spending was indicative of potential misappropriation of funds. Having reviewed the account activity I agree with the Investigator that I don't think the arrival and spending of Mr C's payment was suspicious or unusual enough for NatWest to have reasonably been concerned that the account was being used for fraudulent purposes.

And even if I were wrong about this and/or I agreed (which to be clear I don't) with Mr C that NatWest's systems ought to have flagged the incoming payment or those leaving the account, in these circumstances, I still don't think it would be fair to ask NatWest to refund Mr C's loss. I say this because even if NatWest's systems had flagged the payment for a review, from what I've seen there was nothing about the incoming payment or the payments leaving the account that would've given them enough of a cause for concern. The incoming payment had no beneficiary name mismatch, the way in which it was spent did not fit an obvious or known pattern of fraud, the account since opening (July 2021) had been operating without any concern, and NatWest had not received any reports of fraud in relation to the account. Therefore, in this case, even if NatWest had gone as far as to have had a conversation with their accountholder, it's most likely that the accountholder, if asked, would've confirmed that they were the intended recipient and that everything was ok. And at that point I can't see a basis upon which NatWest could've contested what it was being told. NatWest have also confirmed, and shared systems records which show that aside from Mr C's complaint (raised through his representative several months later in August 2022) it hasn't received any other reports (in relation to the recipient account) about fraudulent payments. So it follows that I can't fairly and reasonably conclude that NatWest could've prevented Mr C's loss in this way either.

To date Mr C's bank hasn't sent notification of fraud to NatWest. It isn't unreasonable for a recipient PSP to request formal notification of fraud from the remitting bank before taking steps to assist in the recovery of the disputed funds. One of the reasons for this is to mitigate the risk of malicious claims from unknown parties, which to be clear isn't something I'm suggesting has happened here. But even if I were to say NatWest ought to have done something more when it received Mr C's complaint in August 2022, his funds had long been spent. So based on what I've seen I can't say how NatWest chose to respond to the notification of fraud it received directly from Mr C impacted what it could've recovered from the recipient account.

For completeness, I'm also satisfied NatWest haven't acted unfairly or unreasonably when informing Mr C that it can't share (with him) information about the recipient accountholder and the investigation it carried out. As the information contains someone else's personal data, in the circumstances of this case, without their being a lawful basis and/or consent from the third party whose data it is, NatWest can't share this with Mr C.

I sympathise with Mr C being the victim of a scam. But as I'm not persuaded his loss is as a result of failings by NatWest, there isn't a reasonable basis upon which I can direct them to do more to resolve this complaint.

### **My final decision**

For the reasons outlined above, my final decision is that I don't uphold this complaint.

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

Sonal Matharu  
**Ombudsman**