

The complaint

Ms G complains that National Westminster Bank Plc (NatWest) won't refund money she lost in an investment scam.

What happened

What Ms G says:

Ms G followed someone on Instagram who was making posts about the money he was making on a particular investment. Ms G got a message from the person, who said he'd been investing and making money from the investment. She found out that the business was advertising products online with Amazon and seemed to get good (94%) reviews. The company appeared to be registered at Companies House.

The introducer said she would get a 50% return on the investment, but if she invested £10,000 he would take a commission of 18%. Ms G made an initial investment of £10,000 in cash – withdrawn from another (non-NatWest) bank account.

Ms G received regular payments to her bank account – four payments totalling £7,400 over four months. So – she was confident the investment was worthwhile. She was asked to make a further investment, which she thought was a good idea, given the returns she was making.

In September 2018, she sent a further £10,000 in two payments, from her NatWest savings account - to two different bank accounts:

Date	Type/Beneficiary	Amount
24 September 2018 – 23.05	Faster payment from savings account /to bank account (1)	£5,000
24 September 2018 – 23.07	Faster payment from savings account /to bank account (2)	£5,000
Total loss		£10,000

After making the two investments, the payments to Ms G stopped. On WhatsApp messages, she was 'fobbed off'. She was told that the investment accounts were under investigation. She contacted the director of the company who said smaller returns of £500 per month would be sent, but nothing arrived. Ms G then realised she had been scammed.

Ms G says NatWest should've done more to protect her. The payments were made from her savings account and were unusual in nature. They weren't stopped or questioned by the bank.

Since the scam, Ms G says she has been stressed and has difficulty in her personal life. She was suffering with her mental health and has lost all her savings and as a result, has had to move back in with her parents because of her losses. Ms G said NatWest should refund £10,000 plus 8% per annum interest, plus compensation of £250.

What NatWest said:

NatWest said the scam wasn't reported when it took place in 2018. In May 2023, NatWest responded to Ms G's complaint. They didn't uphold it and said:

- The payments were made in accordance with Ms G's instructions and bank mandate.
- NatWest would only question the payments if there were grounds to suspect the payments would result in a customer being a victim of fraud.
- A message would've been displayed on the online banking screen before making a payment to a new payee (which these were). This warned of the types of scams being seen. Customers had to confirm they were confident they'd read and understood the advice.
- If a payment triggered a known fraud trend, it would've been stopped – and they didn't in this case.

Our investigation so far:

Ms G brought her complaint to us via her representatives. Our investigator didn't uphold it. She said:

- The Contingent Reimbursement Model Code (CRM) didn't apply as it predated the scam – it came into being in May 2019.
- NatWest should've intervened in the second payment. This was because the other transactions on Ms G's savings account were to /from her current account, and not 'external' payments. And the payments in question were to two new external payees.
- But even if NatWest had intervened, she said it wouldn't have made a difference as
1) she had previously made an investment of £10,000 and was making good returns
2) the Amazon reviews were positive
3) she checked Companies House and there appeared to be a genuine limited company in the name of the investment prospect.
- So even if NatWest had intervened, she thought Ms G would've answered NatWest's questions and would've gone ahead anyway.

Ms G didn't agree. She said that if probing questions had been asked, they would've put her on notice that the promised returns were unrealistic, the contact was via social media, and that more money was being requested. Ms G asked that an ombudsman look at her complaint, and so it has come to me to make 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 sorry to hear that Ms G has lost money in a cruel scam. It's not in question that she authorised and consented to the payments in this case. So although Ms G didn't intend for the money to go to a scammer, she is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case. But that is not the end of the story. 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, I consider NatWest should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) doesn't apply in this case. That is because it came into effect in May 2019 – after the payments in question.

I need to decide whether NatWest acted fairly and reasonably in its dealings with Ms G when she made the payments, or whether it should have done more than it did. I have considered the position carefully.

The first consideration here is: if the payment was of a sufficient size and was out of character with how Ms G normally used her savings account – then we would expect NatWest to have intervened and spoken to her about it. I looked at Ms G's account, and it's fair to say that the payments were unusual compared to the way in which she normally used it. It was a savings account, and there were no other payments to external parties during the previous eight months (the period I looked at). The only transactions were transfers to and from her current account.

The two payments in question were made within a few minutes of each other. So even if NatWest allowed the first one, I agree that it would've been reasonable to have stopped the second payment and contacted Ms G about what was happening.

We would have expected them to ask open questions such as:

- Why are you making the payment?
- Who to?
- For what purpose?
- How did you hear about the investment?
- How were you contacted about it?
- Where did the money come from that you're investing?
- How were you given the bank account details where the money was to be paid to?

Would intervention by NatWest have made a difference?

But that's not the end of the story here. I must consider if it would've made a difference if NatWest had asked those questions - would Ms G have still gone ahead? And I consider she would have as:

- Importantly, she had already made a significant return of £7,400 on the first cash investment of £10,000 – within a short period of time.
- This was paid in four instalments over four months – as she had been promised.
- So – it looked like the investment was working to her advantage (even though this may have been part of the scam).
- She had done her own research which showed good reviews on Amazon, and she thought the company was registered at Companies House (in fact, I can see the company was registered in March 2019 – so that couldn't have been the case).

So – I'm persuaded that even if NatWest had intervened, Ms G would have gone ahead anyway, and any intervention would not have made a difference. Therefore, I don't think I can reasonably hold NatWest liable for Ms G's losses here.

Recovery

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether NatWest took the necessary steps in contacting the banks that received the funds – in an effort to recover the lost money. They showed us what they did. And one bank said no money remained, while the other bank didn't respond. But here – I consider that given the passage of time since the scam took place (five years) – it's very unlikely that any funds could be recovered from the second bank in any case.

Ms G has lost a lot of money. She's explained why the money was important to her, and the impact her losses have had. I was sorry to learn of her circumstances. She will therefore be disappointed by my decision, but I'm not going to ask NatWest to do anything here.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 9 January 2024.

Martin Lord
Ombudsman