

The complaint

Ms W complains about National Westminster Bank Plc (NatWest).

She says that NatWest didn't do enough to protect her when she became the victim of a scam and would like NatWest to refund her the money she has lost as a result.

What happened

In May 2022, Ms W was contacted via LinkedIn by an individual with whom she began a relationship with. In July 2022, this individual began to talk to her about investment in cryptocurrency. Ms W was persuaded to invest and was helped by the individual on how to do so.

Ms W realised it was a scam when she was asked to pay additional fees and taxes to access her supposed profits and initial investment.

By this time, she had paid £110,121.39 to the scammer, as set out below.

Date	Payee	Amount
11/07/2022	Crypto.com	£426.13
11/07/2022	Crypto.com	£426
14/07/2022	Crypto.com	£867.59
16/07/2022	Crypto.com	£867.66
18/07/2022	Crypto.com	£7,233.06
21/07/2022	Foris Dax	£5,000
22/07/2022	Foris Dax	£5,000
23/07/2022	Crypto.com	£7,982.88
24/07/2022	Foris Dax	£5,000
24/07/2022	Foris Dax	£5,000
25/07/2022	Crypto.com	£8,595.89
25/07/2022	Crypto.com	£1,237.95
26/07/2022	Foris Dax	£5,000
27/08/2022	Foris Dax	£5,000
07/08/2022	Foris Dax	£5,000
07/08/2022	Foris Dax	£3,300
08/08/2022	Crypto.com	£5,149.49
08/08/2022	Crypto.com	£8,807.24
08/08/2022	Crypto.com	£4,048.10
10/08/2022	Foris Dax	£5,000
11/08/2022	Foris Dax	£5,000
12/08/2022	Foris Dax	£5,000
13/08/2022	Foris Dax	£5,000
16/08/2022	Crypto.com	£6,179.40
	Total	£110,121.39

Ms W complained to NatWest, but it didn't uphold her complaint.

Unhappy, she complained to this Service. Our Investigator considered the complaint but didn't think that it should be upheld. They said that while NatWest could have held a better intervention with Ms W, that there was nothing that a further intervention would likely have uncovered, and so it wouldn't have made a difference.

Ms W asked for an Ombudsman to consider her complaint, so it has been passed 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.

Having done so, I've decided not to uphold this complaint, for broadly the same reasons as our Investigator. I know this will be disappointing for Ms W, so I'll explain why.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider having been good industry practice at the time.

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 (PSR's) and the terms and conditions of the customer's account. And I have taken that into account when deciding what's fair and reasonable in this case.

So, although Ms W didn't intend for the money she paid to go to a scammer, under the Payment Services Regulations 2017 and the terms and conditions of her account, she is presumed liable for her loss in the first instance.

However, taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider having 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.

In this case, I need to decide whether NatWest acted fairly and reasonably in its dealings with Ms W when she authorised payments from her account or whether it could and should have done more before processing them.

Did NatWest act fairly and reasonably in Ms W's case?

Having considered the payments that Ms W made, I think that NatWest should have intervened on the fifth payment that Ms W made, as by this time the payments seemed unusual for the way Ms W generally ran her account. The intention being to check that everything was as it should be.

However, I am aware that NatWest intervened prior to this, and spoke with Ms W about the payment she made on 16 July. NatWest has provided me with a copy of this call.

In this, Ms W was asked if she was making this investment herself – or if anyone else had made contact with her or asked her to make any payments. She said 'both' – and when asked to clarify she said that she was making an investment with her partner. NatWest said that it needed to make sure that she wanted to make the payments – and that she wasn't being told to make the payments. Ms W confirmed that she wanted to make the payments.

I do think that NatWest could have asked more questions here than it did – and I don't think this intervention went as far as it should of at this time. But I am also not persuaded that further questioning from NatWest would have been able to uncover the scam. I'll explain why.

By the time that Ms W began making the payments, she considered herself in a relationship with the scammer – they had been speaking for several months and Ms W regarded the scammer as a partner she was going to have a future with. So even if NatWest had questioned her further about the payments, I think that she would have maintained that she was entering into an investment with her partner.

I also consider that Ms W was so taken in by the scammer and that they would have been able to alleviate any concerns that she raised with them. And even if she was to have researched Bitcore Exchange (where she sent the payments on from her own crypto wallet) I don't think that she would have uncovered anything that would have led her to think that she was being scammed.

I am also aware that Ms W took out a loan with another bank in order to finance part of the payments she made to the scam. This bank has confirmed that the loan was for home improvements – but this wasn't the case. So, I think this also shows that Ms W was so under the spell of the scammer she would mis-lead a financial institution about what she was doing.

I know that Ms W is upset that NatWest allowed her to increase her daily payment limit on her account – but it was her that asked to do this and said that she didn't want any interruptions to payments that she was making.

Ms W has also provided a list of transactions from her crypto account where she sent some of the money on to the scammer – I can see that on several occasions there was a delay in the money being moved on – so the point of loss for these payments was Ms W's crypto account, and not NatWest.

I have also considered if NatWest could have done anything to recover the funds that Ms W has lost – but I don't think that it this would ever have been possible. The funds had already been paid to the scammer, and had already been lost, so there was nothing that could be done to recover the funds.

I am very sorry to hear of the experience Ms W has been through – she has been the victim of a cruel and sophisticated scam – and I understand that she will be feeling vulnerable and upset about what has happened. I in no way blame her for being taken in by a calculating scammer.

But the loss she has experienced has been caused by the scammers themselves, not NatWest. And I'm not able to uphold her complaint when I am not persuaded that further intervention could have stopped the scam.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 15 January 2024.

Claire Pugh
Ombudsman