

The complaint

Mr R complains National Westminster Bank Plc (NatWest) won't refund the money he lost to a scam.

What happened

In 2023, Mr R was approached via instant messaging app by an individual claiming to offer financial advice in relation to cryptocurrency trading, promoting an investment platform. He was persuaded it seemed legitimate, so decided to invest. Unfortunately, it appears the person who contacted Mr R was a scammer, who was promoting a fake platform.

Between April and May 2023, Mr R made payments from his NatWest account exceeding £20,000 to the scam – via cryptocurrency wallets. He also sent significant sums on to another bank account he held, in order to send the money on to the scam (again via cryptocurrency wallets).

From May 2023, several attempted scam payments were blocked. NatWest has explained this was because it had introduced blocks and limits to certain types of cryptocurrency payments. Mr R called NatWest about the blocks and was advised of this policy. He continued making payments from his other bank account.

After being repeatedly asked for fees without receiving anything in return, Mr R realised he had been scammed. In July 2023, Mr R complained to NatWest, via a professional representative, that it should have done more to protect him when he made the payments. When NatWest didn't refund him, he referred the matter on to our service.

Our investigator didn't uphold Mr R's complaint. She thought NatWest ought to have blocked the payments sooner, particularly given its policy. But she wasn't persuaded that would have prevented Mr R's loss, given that he continued to make payments from another account. And when that bank had intervened to question Mr R and warn him about the scam risk, it hadn't succeeded in dissuading him – having been coached on how to answer the bank's questions.

Mr R has appealed the investigator's outcome. In summary, he says NatWest didn't intervene with the payments when it should have done, as there were reasonable grounds to suspect fraud, given the size and frequency of the payments and the risks associated with cryptocurrency transactions.

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 reached the same conclusions as the investigator. I'm not persuaded it would be fair to hold NatWest liable for Mr R's fraudulent loss. I'll explain why.

Banks have a contractual duty to make payments in compliance with customers' instructions. But taking into account the longstanding regulatory expectations and good practice, I think NatWest should fairly and reasonably have been on the look-out for the possibility of fraud or scams and have taken additional steps, or made additional checks, before processing payments in some circumstances – as in practice all banks, including NatWest, do.

There is a point I'd like to note about the two recipients Mr R paid. He has said he was purchasing cryptocurrency to send on to the scam platform. The main recipient he paid was a cryptocurrency wallet. The other, which only the first payment was sent to, is an authorised payment institution which provides payment services to cryptocurrency merchants.

It doesn't appear to be in dispute that Mr R was transferring money into (cryptocurrency) accounts he held initially, rather than sending the funds directly to the fraudster. But by the time of these payments, cryptocurrency scams had risen greatly in frequency, including multi-stage scams. It's reasonable to conclude NatWest had time to digest these warnings and put mechanisms in place to detect and prevent this type of fraud.

NatWest had placed limits on certain types of cryptocurrency payments from March 2023. But it seems these mechanisms didn't apply to payments made through open banking – which all the larger payments (one for £13,000, and two for £4,000) were.

Like the investigator, particularly given that NatWest had devised a policy due to realising the risks involved with higher-value cryptocurrency payments, I question whether it was adequate that NatWest didn't take further action here. So, the key question I'm considering is whether, if it had responded proportionately, it would have uncovered the scam and prevented Mr R's loss.

Having carefully considered this point, on balance, I'm not persuaded it's likely NatWest would have succeeded in preventing Mr R's loss. As the investigator noted, when NatWest told Mr R about its new limits, he simply proceeded to make the payments from another bank account. If it had done this earlier, it therefore seems likely Mr R would still have made the payments via another channel.

Furthermore, when the other bank spoke to Mr R about several of the scam payments, he wasn't forthcoming about what he was doing. For example, he claimed he had been dealing with the trading company for several years; had checked they were regulated; and had received returns. He also maintained he wasn't getting advice, despite telling us that the scammer was advising him on the trading. Even when the other bank warned Mr R they had scam concerns about the recipient he paid, Mr R was adamant that he wasn't being scammed and that he wanted to proceed.

It's clear Mr R was very taken in by this sophisticated scam. It's likely fake technology was being used to make it appear that his money was being invested and performing well. The scammer also built up trust through phone contact, to the extent Mr R believed he was in a romantic relationship with the individual and they were making plans to meet. In those circumstances, I'm not persuaded it's likely NatWest would have been able to prevent Mr R's loss through further intervention.

If questioned about what he was doing, Mr R's responses to the other bank suggest he would have answered in a way to alleviate the bank's concerns – as he has told us he was coached into doing. Nor do I think a warning about this type of scam would have stopped him. I agree with the investigator it's more likely Mr R would simply have continued making the payments from his other account.

I appreciate this will be disappointing for Mr R. As I'm not persuade NatWest's actions – or inactions – are the cause of his loss, I don't think it would be fair to direct it to refund him.

My final decision

For the reasons given above, 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 R to accept or reject my decision before 12 June 2024.

Rachel Loughlin
Ombudsman