

The complaint

Mrs M complains that National Westminster Bank Plc ('NatWest') won't reimburse the money she lost after she fell victim to a scam.

What happened

Mrs M says that she messaged someone via a social media app about investing. She was persuaded to make three payments on 12 February 2023 for £300, £800 and £800. All three payments were made to a genuine company involved in the sale of cryptocurrency. Mrs M was meant to make a return quickly, but this didn't happen, and the trader deleted the account. The following day Mrs M called NatWest to report what had happened.

NatWest considered Mrs M's claim but didn't agree to reimburse her. It said Mrs M had a civil dispute with the cryptocurrency provider and it was not the point of loss. NatWest upheld Mrs M's complaint in respect of the service she received and paid her £50 compensation.

Mrs M was dissatisfied with NatWest's response. She was unhappy with NatWest's decision not to reimburse her and with the service she was provided with as she said NatWest shrugged her off and didn't listen.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. He said the transactions weren't so unusual and out of character that NatWest ought reasonably to have had any concerns and intervened. The investigator referred to certain transactions made by Mrs M in the months before the scam to support this conclusion. Finally, the investigator said the amount NatWest had paid in respect of the service provided was reasonable.

Mrs M didn't accept the investigator's findings and asked for a final decision, so her complaint has been passed to me to consider. She said the investigator failed to take into account the whole picture and had considered payments between her own accounts, a payment to an insurance company and two payments to a family member when assessing whether the scam payments were unusual. It was the first time she had made a payment in respect of cryptocurrency and Mrs M said NatWest should have looked into this.

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.

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 to have been good industry practice at the time.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) doesn't apply in this case because it only covers payments to another person and transactions between GBP denominated accounts.

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 made 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.

Whilst I accept Mrs M is the victim of a scam this doesn't automatically mean that NatWest should refund her. I can only ask NatWest to refund Mrs M if I conclude it should have done more to prevent the payments from being made. I've considered the position carefully.

I don't agree with NatWest that because Mrs M received the cryptocurrency she paid for, she has a civil dispute with the seller. By January 2019, firms had, or ought to have had, a good enough understanding of how these scams work – including that a customer often moves money to an account in their own name before moving it on again to the scammer - to have been able to identify the risk of harm from fraud. So I've gone on to consider whether NatWest should have recognised a risk of harm when Mrs M made the payment requests.

Whilst I recognise Mrs M has lost an amount that matters to her, I don't believe the scam transactions were at a level that ought reasonably to have concerned NatWest. The highest payments Mrs M made was for £800 and the overall loss on 12 February 2023 was £1,900. The scam transactions were also in line with Mrs M's usual account activity. In the six months before the scam, Mrs M had made a payment of £1,000 to a company, and two payments of £1,000 to a third party on consecutive days. I accept that transfers between accounts don't represent normal spending and haven't taken them into account. So payments of up to £800 don't stand out as being out of character. Mrs M has provided reasons for the transactions and implies they shouldn't be considered when determining her usual pattern of spending, but I don't agree.

I appreciate that Mrs M hadn't previously made payments in respect of cryptocurrency but am not persuaded that there was enough going on that NatWest ought reasonably to have been concerned enough to block the payments while it intervened. There's a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. If all payments such as the ones Mrs M made to her own account were blocked while further enquiries were made, many genuine payments would be stopped which would cause significant disruption and delay.

There was nothing NatWest could have done to recover Mrs M's funds as they were transferred to a genuine company to buy cryptocurrency.

Mrs M was also dissatisfied with the service she received from NatWest, so I've listened to the call that took place when she reported the scam and thought about the service NatWest provided. I don't consider the call was badly handled or that NatWest's service was

otherwise poor. In any event, NatWest has paid Mrs M £50 in respect of the service it has provided so I'm not asking it to do anything more.

I'm sorry Mrs M has had to contact us in these circumstances. I accept she's been the victim of a cruel scam, but I can't reasonably ask NatWest to refund her.

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 Mrs M to accept or reject my decision before 20 November 2023.

Jay Hadfield
Ombudsman