

The complaint

Mr M complains about National Westminster Bank Plc (NatWest).

He says that NatWest didn't do enough to protect him when he became the victim of a scam and would like NatWest to refund the money he has lost.

What happened

Mr M had begun an online relationship, after building up trust, this individual asked Mr M if he had an interest in learning to trade in cryptocurrency.

Mr M was persuaded to invest and purchased crypto, which he believed was then transferred onto a trading platform where he could see his investment - although this platform was fake.

The payment journey began with a different bank, but Mr M then moved funds from a loan he had taken out with this bank to NatWest and began making payments from his NatWest account.

Mr M has lost a total of £40,535 from his NatWest account.

Once he realised he had been scammed, Mr M complained to NatWest, but it didn't uphold his complaint. He then brought his complaint to this Service.

Our Investigator considered the complaint but didn't think that it should be upheld.

Mr M asked from an Ombudsman to make a final decision, so the complaint has been passed to me.

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 out Investigator. I know that this will be very disappointing for Mr M. He has lost a large amount of money and has been tricked by someone he trusted, and I know that this has had a huge impact on him both financially and emotionally.

It isn't in dispute here that Mr M has been scammed – he was contacted under the premise of starting a relationship, but in reality, this was a ruse. He parted with large sums of money while being reassured by this individual that it was a legitimate investment. Then when it came to making a withdrawal, Mr M was allowed to take a small withdrawal, but when the time came to take out larger sums, excuses were made, and more funds were apparently required to do so. The scammer then cut contact with Mr M.

Did Mr M authorise the payments?

In line with the Payment Services Regulations 2017 (PSRs), Mr M isn't liable for payments he didn't authorise, unless he failed with gross negligence or intent to comply with the terms of the account or keep his personalised security details safe. Accordingly, I've considered whether Mr M authorised the payments in question here.

Having done so, I'm satisfied that Mr M did authorise the payments in question here. I understand that Mr M had been tricked by the scammer into instructing NatWest to make the payments – but while Mr M never intended the payments to go to the scammers, this doesn't change the fact that he authorised them and is therefore presumed liable for the loss in the first instance.

Recovery of the payments Mr M made

After the payments were made, I wouldn't reasonably expect NatWest to do anything further until it had been notified there was a scam.

Mr M made payments to the scammer by debit card and by online transfer. The only recourse for potential recovery of the funds for the payments made by debit card would be via the chargeback scheme. Chargeback is a process by which disputes are resolved between card issuers (here, NatWest) and the merchant (here, the sellers of the crypto that was purchased).

But I don't think it's likely that a chargeback request would ever have been successful. This is because the sellers of the crypt are legitimate crypto exchanges and provided the services that Mr M requested of them – which was the purchase of crypto. The subsequent transfer of the crypto to a different wallet is therefore a separate matter – and so a successful chargeback would never have been possible – and so I don't think that these payments were recoverable once they had been made.

Similarly, while NatWest could also have asked the receiving bank of the online transfers to return the money, the services had already been provided, so I think that it would have likely refused the request.

Should NatWest have reasonably prevented the payments in the first place?

I can only uphold this complaint if I think that NatWest reasonably ought to have prevented some or all the payments Mr M made in the first place – therefore preventing the loss before it happened.

Mr M authorised the scam payments in question here – so as I've explained above, he is presumed liable for the loss in the first instance.

That said, as a matter of good industry practice, NatWest should have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction.

Taking into account the law, regulatory 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:

- Been monitoring accounts – including payments made and 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 its customers were at risk of fraud (amongst 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; and
- 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.

So, I've carefully considered what this means for Mr M and the payments in question here.

NatWest contacted Mr M twice when he was making the payments. The first time it contacted him, it only asked him to confirm that it was him making the payment – but the second time it spoke with Mr M, it asked him specific questions about the payment he was making, and gave him a meaningful warning about crypto scams too. But Mr M didn't divulge important information to NatWest during this call – including that someone else was instructing him to make the payments. Mr M had also already received a similar warning from his other bank too by the time these payments had been made. But he still continued to make the payments.

So, I'm satisfied that NatWest didn't miss an opportunity to prevent the payments from being made.

I do have a great deal of sympathy for the situation Mr M now finds himself in. He has been the victim of a cruel and sophisticated scam. However, the loss suffered is ultimately caused by the scammers, and not NatWest. And I can't ask NatWest to refund this loss when I think it provided meaningful warnings to Mr M, and he chose to continue making the payments.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 August 2023.

Claire Pugh
Ombudsman