

The complaint

Mr N complains that National Westminster Bank Plc won't refund payments he says he didn't make from his account.

What happened

Mr N contacted NatWest to dispute payments made with his card online to a gambling company. He says he didn't make these payments and is unhappy that he was asked to contact the merchant and was then referred back to NatWest.

NatWest said that there were 17 payments involved made late on 5 September 2020 and into the following morning. These totalled £7,850. It had contacted the merchant which had told it that the IP address used to deposit funds was the same as one used the previous month from an account that matched Mr N's details. The larger payments were confirmed using 3D Secure and there were withdrawals made at that time too which credited Mr N's bank account. These payments didn't match any fraud trends.

Our investigator didn't recommend that the complaint be upheld. She said that large transfers were made from Mr N's savings account to his current account to help fund payments. This was done using mobile banking and from the same IP address that the gambling merchant had recorded. Mr N had also shown that secure codes had been sent to his mobile during this period to verify the payments to the gambling website. Mr N had told her that he kept his details secure and had his phone with him while he was asleep at the time. But she said that there was no likely way in which an unknown third party could have accessed his mobile banking account and also gambling account in this was to make these payments. She also didn't see there was any benefit to a fraudster of gambling as that person couldn't have access to any winnings. She thought that it was normal for NatWest to ask Mr N to contact the merchant first and it couldn't do anything until the pending payments had been debited.

Mr N didn't agree and wanted his complaint to be reviewed. He said that as he knew he didn't make these payments he hadn't looked into whether or how a third party could have done so. He said that it wasn't in NatWest's interests to look into this properly and refund the money. If he had been trying to make a false claim he'd have said his card or phone had been taken. And he thought that the person doing this might have just been reckless and wanted to gamble. Mr N provided evidence of an attempt to use his details for an account with a different merchant later on 6 September 2020 and also on 11 September 2020 which he says was done by a fraudster. This loss and the way his dispute was dealt with has affected him and he intends to take this to court if his complaint isn't upheld.

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 need to take into account the Payment Services Regulations 2017 in considering this complaint. These state that a payment can only be authorised if it was consented to. So, it's not enough for it to be authenticated. And if payments weren't authorised Mr N wouldn't generally be responsible for them.

So, I will be thinking about the following areas in looking at this complaint:

- What is the most likely explanation of what happened for these payments?
- Did Mr N either authorise the payments which could be by allowing someone else to make them?
- Did NatWest act reasonably?

I'm satisfied that these payments were authenticated using Mr N's details. These originated from an online merchant account Mr N had used before and which had his correct personal details. And he's provided a copy of a record of texts that were sent to his phone number with secure codes at that time showing how these were additionally verified. He is also disputing making the transfers between his bank accounts and I've seen the audit information from NatWest showing that these were made following log-ons with his mobile banking app.

The issue is whether he consented to the payments. I take his point that the size and frequency of the payments was greater than he'd made before. And that a person making them might have just wanted to gamble having no way of getting any winnings which as NatWest showed went back to his bank account. Mr N also shows a large payment was attempted to another branded gambling account too. Having said that someone with access to mobile banking and the secure codes needed to make payments could have been in a position to send the significant balance in his savings account to another account too rather than gamble with it.

I won't be able to say *exactly* what happened and I'm thinking about what is *most likely*. A person acting without Mr N's authority would somehow have had to have free access to his phone – knowing any passcode on that – and to have been able to log on to his online banking account and also his gambling account. I'm afraid him saying he simply didn't make the payments doesn't provide any alternate explanation. And the use by a third-party would be counter to what he says about having kept his details especially about this bank account secure and having his phone with him while he was sleeping. And I'd need to think that someone was somehow using the same IP address as he had used before both to make gambling payments and access his bank account.

Having considered what he has said and the information from NatWest I am not persuaded that the most likely explanation is that these payments weren't authorised by Mr N. As I find he was responsible for the payments I don't think NatWest acted unreasonably in not as it says making any other fraud checks at the time. It followed its normal process when he reported these payments as disputed and I don't have a basis to find that it should do anything more.

I know Mr N will be very disappointed by my conclusions especially as he explained that he needed to take a loan shortly after these payments.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 12 July 2021.

Michael Crewe
Ombudsman