

The complaint

Mr P complains about National Westminster Bank Plc (NWB) and the way they handled, and declined, his request for a refund of transactions made to gambling websites.

What happened

Mr P held a current account and credit card account with NWB. On 17 August 2020, Mr P made four separate transactions using his current account for £2,805.43, £2,065.74, £1,032.86 and £1,032.86 to a gambling website, who I'll refer to as "A". These transactions were debited in Roubles due to the website's location. On 21 August, Mr P made five separate transactions using his credit card account for £481.19 and four sets of £962.38 to another gambling website, who I'll refer to as "W". Again, these transactions were debited in Roubles due to the website's location.

Mr P said he didn't realise both websites were based in Russia until the transactions had been converted in Roubles. So, he complained to these websites directly and received a refund of around £1,800 but received no further contact following this. So, Mr P contacted NWB to dispute the transactions. NWB declined the chargeback as Mr P had disputed the transactions as 'services not described' and they didn't think they had evidence to support this. Mr P was unhappy with this, so he raised a complaint.

Mr P was unhappy with NWB's decision to decline his chargeback. And he also thought NWB should've done more to block the transactions on his credit card account as they were for gambling which he felt should've been clear. So, he wanted NWB to refund him the amounts he'd paid to both A and W.

NWB responded and didn't agree. They thought their decision to decline the chargeback was fair. And they didn't think they'd done anything wrong when processing the transactions based on the merchant code used by W. So, they didn't think they needed to do anything more. Mr P remained unhappy with this response, so he referred his complaint to us.

Our investigator looked into the complaint and didn't uphold it. They thought NWB had declined Mr P's chargeback fairly, in line with card's scheme rules. And they didn't think NWB had made an error when failing to block the transactions placed on Mr P's credit card account as W had used the incorrect merchant code. And they didn't think it was fair to hold NWB responsible for this. They explained as W were based abroad, they didn't need to follow the same rules as set out for similar companies based in the UK. So, they didn't think NWB needed to do anything more.

Mr P didn't agree. He thought NWB were aware of his gambling addiction so should've done more to protect his account from any transactions that may have looked as though they were for gambling purposes. And he also didn't think it was fair for him to be disadvantaged by a mistake made by W when presenting the transactions under the wrong merchant code. So, he maintained his view that NWB should refund him the payments he'd made to both A and W. Our investigator responded to Mr P's comments, explaining their view remained unchanged. Mr P remained unhappy, so his complaint has been passed to me for a 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'm not upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

First, I want to recognise the impact this complaint has had on Mr P. I recognise he deposited a significant amount of money into the accounts he had with A and W. And I don't dispute Mr P was unaware these websites were based in Russia, so I can appreciate the concern he would've felt when he saw the transactions had been debited in Roubles. I also don't dispute Mr P's claims that when he tried to remove the funds he's deposited to A and W from the accounts he held with them, he was unable to do so. So, I understand why Mr P returned to NWB who provided both accounts and sought a refund through them. And I can understand why, when NWB told Mr P they'd be unable to provide this refund, Mr P would be left unhappy due to the financial loss he was unable to address.

But for me to say NWB have done something wrong, I'd need to be satisfied they acted outside of the card scheme rules when declining the chargeback he raised. Or, that they failed to block the transaction made on Mr P's credit card account when they should've done so. And so, are responsible for the financial losses attributed to the transactions made to W from this account. And in this situation, I don't think that's the case.

I've first considered the chargeback Mr P raised, and NWB's decision to decline it. It's important to note that a chargeback is raised and considered against the card's scheme rules. It isn't based on the merits of the disputed between Mr P and A in this case. So, I'd only expect NWB to consider Mr P's claim against these rules and make a decision on whether they thought it was likely to be successful.

I've seen Mr P raised the chargeback as 'services not described'. But NWB say they've been provided no evidence to show that the funds Mr P deposited into his account with A from his current account weren't available to use on the website. So, without this, they didn't think they could say Mr P hadn't received the service he believed he was paying for. And because of this, they declined the chargeback claim. And I don't think NWB have acted unfairly when reaching this decision.

I'm satisfied NWB fairly considered Mr P's chargeback claim. And as I've also seen no evidence to show Mr P wasn't able to use the funds he deposited onto the website; I don't think NWB acted unreasonably when declining the chargeback on this basis. While I don't dispute Mr P's testimony that he didn't realise the website was based in Russia, and I appreciate why this may have led him to want a refund rather than use the funds, I don't think this reason falls under the card's scheme rules as a valid reason for a successful chargeback. And so, I don't think NWB need to do anything more for this aspect of the complaint.

I've then considered Mr P's concerns about his credit card account and his belief that the transactions to W should've been blocked. For me to say they should've been, I need to be satisfied NWB should've realised from the information they had available that the transactions were for gambling purposes and that Mr P should be blocked from making transactions such as these.

In April 2020, the Gambling Commission banned gambling merchants regulated in the

United Kingdom from accepted payments made by credit cards. So, as Mr P was making payments from the UK, I can understand why he may think this applies in this situation. But the ban was on gambling merchants from accepting payments from credit cards, rather than credit card providers allowing customers to use their credit card accounts for transactions such as these. So, NWB don't have to prevent their customers from using their credit card accounts for these sorts of transactions. And even so, the website Mr P paid wasn't regulated in the UK as it was based overseas. So, the websites weren't impacted by this ban.

I've seen the merchant code W used when presenting the transaction to NWB. And this code related to *'Member Financial Institution – Merchandise and Services'*, which crucially, isn't a code representing any sort of gambling transaction. It was W's responsibility to present the transactions correctly, not NWB's. So, I can't say NWB should be held responsible for any error W made. I recognise Mr P feels this is unfair and that he's been disadvantaged because of this and I understand why Mr W feels this way. But this is a concern he'd need to raise this with W directly as my role is only to consider what NWB have done. And in this situation, I can't say they made a mistake as I don't think NWB would've been able to identify the transactions Mr P were for gambling purposes. So, I don't think they would've been reasonably aware that they had cause to block them.

But I appreciate Mr P disputes this. And he's referred to his statements which he believes shows he was gambling heavily at the time the transactions were made. Mr P has also explained NWB should've been aware of his gambling addiction at the time as he'd explained this to his relationship manager.

NWB don't dispute they were made aware that Mr P had gambled using his credit card previously as Mr P had disputed a previous transaction. But I've seen no evidence to show Mr P made NWB aware he had a gambling addiction or that he wanted a block to be applied to his account. I've also seen no evidence to show Mr P had attempted to use his credit card account for other gambling transactions in the time before he made the transactions to W. So, I don't think I can say NWB acted unfairly by not blocking the transaction. From the information had, Mr P had made a genuine transaction to W and there was no information to suggest it was for gambling purposes. And even if it was, I can't see NWB were told explicitly by Mr P to block these sorts of transactions. So, I don't think NWB need to do anything more.

I understand this isn't the outcome Mr P was hoping for. And I recognise it doesn't help address Mr P's financial losses which I don't dispute he paid to A and W without fully understanding who those websites were, and where they were located. But I don't think these losses have been caused by anything NWB have done wrong and so, it wouldn't be fair for me to say NWB should cover these.

My final decision

For the reasons outlined above, I don't uphold Mr P's complaint about National Westminster Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 28 February 2022.

Josh Haskey
Ombudsman