

## **The complaint**

Mr P complains that National Westminster Bank Plc won't refund debit card payments which were made as the result of a scam.

## **What happened**

The background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr P believed he was dealing with a genuine investment firm – 'B'. He says B's representatives promised him big returns and asked him to make payments to B's trading platform in bitcoin. They told him by doing so he could earn a greater return. So across June 2019 and July 2019, Mr P made six payments totalling around £4,000 using his NatWest debit card. The initial registration payment was made to a merchant, which I'll refer to as 'Q'. The subsequent five payments were made to a legitimate cryptocurrency exchange, which I'll refer to as 'C' to purchase bitcoins. These bitcoins were then sent to the external addresses provided by B's representatives. There were also two small credits to Mr P's account – one from each merchant.

Mr P realised he'd likely fallen victim to a scam when he wasn't able to withdraw his funds and the representative ceased communication. He contacted NatWest and asked that it reverse or refund the payments.

Ultimately NatWest said that it was unable to pursue a chargeback for the initial payment to Q because Mr P couldn't provide the required evidence. And there were no grounds for chargeback claims under the VISA scheme for the subsequent five payments to C.

Mr P complained and the matter was referred to our service. One of our Investigators explained to Mr P that she didn't think the complaint should be upheld. Mr P disagreed and asked for an Ombudsman to review his complaint.

## **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.

Under regulations and in accordance with Mr P's general account terms and conditions, NatWest should execute authorised payment instructions without undue delay. The starting position is that liability for an authorised payment rests with the payer even where they have been tricked into making that payment, for example as part of an investment scam. There is no dispute here that Mr P authorised the payments. And simply being the victim of a scam doesn't automatically entitle Mr P to a refund.

So for me to uphold this complaint and direct NatWest to pay Mr P's losses I'd need to be persuaded that NatWest's actions at the time of processing the payments reasonably resulted in his loss or it has treated him unfairly when assisting with the recovery of those funds.

Firstly, like the Investigator I'm satisfied the transactions wouldn't have appeared particularly unusual or suspicious to NatWest and I don't think there were sufficient grounds for it to have intervened and/or done more at the point the payments were processed. And as the payments were made using Mr P's debit card NatWest's only option to try to recover Mr P's funds was through chargeback which would be subject to the relevant scheme rules.

I think it would be helpful if I start by explaining that chargeback is a voluntary scheme. There is no 'right' to a chargeback. It is for the regulated card issuer (here NatWest) to decide if it has a basis upon which it can pursue a chargeback. NatWest are bound by the card scheme provider's rules which in this case is VISA.

The rules of the scheme and the evidence requirements are very specific. I wouldn't expect NatWest to pursue a chargeback where there wasn't a reasonable prospect of it succeeding. And a lack of the required evidence is one scenario where I think a claim would be unlikely to succeed. With that in mind, I can see NatWest asked Mr P for the evidence it required for a valid claim under VISA's scheme rules. Mr P did not present the required evidence and so, I don't think NatWest has treated Mr P unfairly in concluding that his claim didn't have a reasonable prospect of succeeding and in deciding not to pursue a chargeback for the initial payment made to Q.

All the remaining disputed payments were made to C, a genuine cryptocurrency exchange. The service provided by the exchange would be to convert Mr P's payments into cryptocurrency. Whilst I appreciate Mr P says he was manipulated by B's representative into purchasing bitcoin. For the purposes of the chargeback scheme C provided the service it was paid for – converting Mr P's money into bitcoin and crediting it to his wallet. Therefore, there are no chargeback rights under the scheme. The fact that the bitcoins (albeit under deception) were later transferred elsewhere doesn't give rise to a valid chargeback claim. I therefore don't find NatWest was acting unfairly or unreasonably when not pursuing chargebacks that didn't have any reasonable prospect of success.

It's unfortunate Mr P has fallen victim to a scam. Despite my natural sympathy for the situation in which he finds himself, I'm not persuaded NatWest has done anything wrong, so I won't be asking it to reimburse the lost money nor do I make any other award against it.

### **My final decision**

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 12 April 2022.

Sonal Matharu  
**Ombudsman**