

The complaint

Mrs C is unhappy that National Westminster Bank Plc (NatWest) hasn't refunded her after cash wasn't dispensed from an ATM she used.

Mrs C is represented by Miss A, but I'll refer only to Mrs C throughout, in the interest of clarity.

What happened

Mrs C used a cash machine at a supermarket. It was one she'd used many times before. She put in her card, entered her PIN and requested £250. Mrs C said she waited a long time but no cash was dispensed.

She thought the machine might be out of notes but then saw someone else use the same machine to successfully withdraw cash.

Mrs C reported the incident to NatWest and it investigated. It contacted the ATM owner and asked for evidence of the transactions. The ATM owner came back with evidence, in the form of electronic records, which showed the transaction completed successfully and that the machine balanced at the end of the day. There was no record of any errors.

NatWest declined to refund Mrs C's £250 in light of the evidence, as the cash appeared to have successfully dispensed. Mrs C was unhappy with NatWest's answer and asked us to investigate.

Once the case was with us NatWest made a proactive offer to settle the complaint and said it was willing to refund £125. It also provided the evidence it had been sent by the ATM owner.

One of our investigators recommended the offer be accepted as he couldn't see that the bank had made an error. He felt the evidence showed the transaction had completed successfully, with the cash being dispensed, and so a refund of 50% was fair.

Mrs C didn't accept and so the case was referred to an ombudsman. We notified the bank of this and it increased its offer to a full refund of £250 as a gesture of goodwill.

Mrs C didn't wish to accept as she had been put through a lot in chasing for the money and felt the bank hadn't acted fairly. She said that she felt the bank ought to be made to change its systems and processes so that vulnerable people were better protected. And so the case has been passed to me for a final 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.

I find that NatWest's offer to settle this complaint and refund the £250 in dispute is fair and reasonable. I won't be telling it do any more.

When considering complaints of this nature our service has to rely on the evidence that's available. That includes the customer's version of events and the electronic records that evidence a transaction. I've considered each piece of evidence carefully in reaching my

findings. In doing so, I've reached my findings based on the balance of probabilities. In other words, what I think is more likely than not to have happened.

In cases like this, it is for the bank to show that the cash more likely than not dispensed. It isn't for the bank to show what happened to it once presented. If the evidence supports the bank's position, it will have been right to debit its customer's account.

Here, the bank have already agreed to refund the disputed amount. And so I wouldn't normally go on to examine the evidence in great detail. But I find it's important to do so here, as Mrs C strongly feels the bank has treated her unfairly in declining to refund for so long.

The electronic records do present persuasive evidence that the cash dispensed correctly. There's no record of any errors occurring. And I can see the machine was being used a lot the day Mrs C tried to withdraw money. There was a successful withdrawal completed 11 seconds before Mrs C started her transaction. And there was another successful withdrawal nine seconds after she finished. If there had been errors with the machine, I'd expect to have seen them affecting more people, and with bigger gaps between transactions.

The evidence also shows that Mrs C completed her transaction within 44 seconds. And, as I've said, the next transaction started nine seconds later. That doesn't suggest a long time spent at the machine waiting for cash to appear, or before someone else was able to successfully transact.

The short timeframe between transactions before and after Mrs C's also shows there was no real opportunity for someone to have tampered with the machine.

Like our investigator, I can see the machine did balance at the end of the day. And there's no record of the cash being retracted back into the machine (there wasn't enough time that passed for that to happen in any case).

All this evidence points towards it being more likely than not that the transaction completed successfully, with the cash being dispensed.

I can't say exactly what happened to the cash after it was dispensed, aside from being persuaded it wasn't drawn back into the machine. It's possible Mrs C was deliberately distracted by someone at the cash machine, and they stole the money. Such occurrences are more common than many people would believe, and the victims of such thefts are often entirely unaware of what's happened. Or the next person to use the machine, who approached just nine seconds after Mrs C's transaction completed, may have opportunistically taken the money, having seen it in the dispense slot.

The bank wouldn't be responsible for refunding the money in either case. The bank does have persuasive evidence the transaction was completed successfully and so there is no requirement to refund. It's not responsible for what happens to the money once it's dispensed.

I've gone into detail here because I know Mrs C feels very strongly about her case. So I wanted to explain the evidence the bank relied on in declining her claim originally. There's nothing to suggest that decision was wrong. Bank's will often make proactive goodwill offers to settle complaints, rather than see them drawn out for a long time. It's also important for me highlight why I don't believe the bank acted unfairly or unreasonably, given I'm making no award of compensation.

Mrs C has said that it's possible there was a malfunction with the machine and/or errors with the evidence. Whilst that can't be entirely ruled out, I consider that to be the least likely scenario. I've already mentioned the successful transactions around the same time as Mrs C's and the fact that the machine balanced at the end of the day. And there don't seem to have been multiple reports of problems with the machine. So I'm satisfied it's more likely than not the records are accurate.

Finally, the changes Mrs C has suggested NatWest ought to make – to its systems and processes – are not something for this service to comment on. We look to resolve the complaints of individuals to ensure they're fairly compensated for loss where a business has been at fault.

I can't say that NatWest has done anything wrong here, so I make no further award against it.

Putting things right

NatWest has already agreed to refund the £250. I find that to be a fair and reasonable settlement.

My final decision

National Westminster Bank Plc has made an offer to resolve the case that I find to be appropriate. I make no further award against it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 24 March 2022.

Ben Murray
Ombudsman