

The complaint

Mr M complains that National Westminster Bank Plc wouldn't refund payments from his account he disputes and also has provided poor service.

What happened

Mr M contacted NatWest to say he had lost his bank card and to dispute three cash withdrawals for £250 each with a £0.99 fee. These took place on 20, 21 and 22 September 2020 and Mr M says he was in hospital then. He is unhappy with the way that NatWest dealt with his dispute. He also raised issues about the service provided to him about previous issues.

NatWest said it wouldn't be refunding the money. The withdrawals were made using the genuine card and the chip was read and the correct PIN entered. Mr M said he had lost his card but there was no identified way in which his PIN could have been discovered. He hadn't provided evidence of his time in hospital or reported this to police as it had asked when he appealed its decision. It decided to close his account. It accepted that there had been service issues. Mr M hadn't been sent a new PIN as he requested when his card was cancelled. He hadn't been sent a letter about a previous disputed withdrawal. And the service he received from a member of staff hadn't been of the standard expected when he called to appeal the outcome. So, NatWest had paid £100 compensation to his bank account.

Our investigator didn't recommend that NatWest do anything more. He couldn't see how anyone could have found out the PIN required for the disputed payments. Mr M had told NatWest that he hadn't written his PIN down or given it to anyone. And so even if Mr M had provided evidence of being in hospital this wouldn't have explained how the PIN was discovered by an unknown third party. He thought that the payment for poor service was reasonable. NatWest had decided to close Mr M's account.

Mr M didn't agree. He didn't think his complaint had been looked at impartially. And he said that he had money in his account that hadn't been returned when it was closed. He said he would provide a bank statement to show this.

my provisional decision

I issued a provisional decision on 31 January 2022. I set out below what I said.

the scope of the complaint

I gave some context for this complaint. Mr M initially disputed a withdrawal of £250 on 17 August 2020. He said that his card got stuck in the machine at the cash point for a different business. And that it was returned to him by staff, but he didn't receive the money. He raised this with NatWest. It said that the business involved agreed to return the money and it was credited back to Mr M's account on 19 August 2020. Mr M thinks that this isn't all of

the money and says he was debited with £500 on 17 August 2020. I understood he's been sent a copy of his statement and I noted that there was a further unrelated cash withdrawal on 17 August 2020 at a different financial business. I was unclear about the other withdrawal save that NatWest says that it raised this with the cash machine owner and the refund was declined. It accepts it didn't tell Mr M about that and that this was a service issue. It hasn't considered any further appeal or complaint about the outcome itself and Mr M would need to raise that with it before we could look into it further.

There are then the disputed withdrawals on 20 to 22 September 2020 which I'd come to. Having reviewed these NatWest decided to close Mr M's account. It says it gave him 14 days' notice on 2 October 2020 and that his account was restricted from 2 October 2020. It also says that it attached a form to the closure notice saying that Mr M would need to go to a branch to arrange for any remaining funds in the account to be returned to him. The statement instead shows that the account wasn't closed until 2 December 2020. There are credits which largely seem to be refunds until 1 December 2020. On the day of closure, the money was transferred out and our investigator had the impression that this meant that it was sent to Mr M. By then the balance was £1,067.42 and included the £100 of compensation paid to Mr M.

Through our investigator I asked NatWest to explain what had happened to the money as Mr M emphatically said he hadn't received it. When it responded it said it was continuing to look into that but wasn't able to show me that it had other than been sent to an internal suspense account. Mr M has also told this service that he did go to a branch to try and obtain money but was told that his account was blocked, and he would need to contact the fraud team. He says he wasn't successful there either. And he wants this service to resolve things. While technically this is a further complaint point I didn't see any merit in dealing with this separately. It is integral to the closure of the account and the dispute over the refunds and Mr M being able to have access to his money. And I had already asked NatWest for some assistance on this point. So, I said I would be setting out my views on that in this provisional decision which will allow NatWest and Mr M to comment.

the September disputed payments

I needed 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, say with a card and PIN. And if payments weren't authorised Mr M wouldn't generally be responsible for them.

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

- What is the most likely explanation of what happened to the card and PIN used for these payments?
- Did Mr M either authorise the payments on the account, or allow someone else to use the card?

NatWest has provided copies of the audit logs for the payments made using Mr M's cards at the relevant time. These show that the withdrawals between 20 and 22 September 2020 were made using chip and PIN with a card ending with number '422. I was satisfied that these were authenticated. The logs also show that Mr M hadn't needed to enter his PIN for the genuine payments that had preceded them on 18 September 2020. The last time I could see the PIN being used for genuine payments with this card was on 3 September 2020. I also noted from his statement that there was another card on the account ending in numbers '978 and being used at the same time as this card and largely it seems for relatively small payments without the PIN.

The issue I needed to decide on is whether he consented to the disputed withdrawals and authorised them. I could see it is possible that someone could have taken his card ending '422 especially if as he says it was left unattended while he was receiving hospital treatment.

Although he says he took other documents with him to hospital, he says he didn't write his PIN down or give it to anyone. And he can't think of anyone else that could have made these withdrawals. I was unclear where his other card ending '578 was other than in his possession and this continued to be used until the account was blocked on 2 October 2020.

I appreciated NatWest asked him for evidence of his time in hospital but even if that had been available it wouldn't resolve how an unknown third party could have found out his PIN.

NatWest says the daily withdrawal limit on his card was £500 and that the maximum wasn't taken. It also says that there were no further attempts at cash withdrawals after Mr M had reported his card stolen on 22 September 2020. Having looked at the evidence I didn't think that's quite right. Withdrawals of £250 (plus fees) were made on 20, 21 and 22 September 2020. There were withdrawals declined on 20 and 21 September 2020 for further amounts of £250 because the withdrawal limit had been exceeded. Notably one of these was an attempted withdrawal at 23:47 on 21 September 2020. A successful withdrawal was possible at 00:12 the next day it seems when the daily limit had reset. So, I did think that the withdrawals were consistent with as much money being taken out of the account as quickly as possible. Having said that it is right that no further attempts to use the card were made after Mr M had reported it lost.

Mr M was reasonably required to keep his PIN safe. And he hasn't given any explanation of how an unknown third party was able to discover that PIN. I couldn't also for example see the possibility of someone seeing the PIN over his shoulder when he used it and taking his card. Because the disputed withdrawals didn't follow quickly after that. While the pattern of withdrawals is a concern again it comes down to how these most likely could be made without his consent. And I wasn't persuaded that the cash withdrawals weren't authorised. I said additionally that if I hadn't reached this view I would have otherwise likely have decided he hadn't kept his card and PIN safe. And he'd have reasonably been responsible for the consequences of that too.

the service issues

Mr M has raised a number of service issues. I've listened to recordings of calls he had with members of NatWest staff. He was unhappy with the one when he tried to make an appeal and I agreed with NatWest that the service it provided wasn't as good as it could have been, and which ended with that call being terminated.

As I said above NatWest also accepts that it didn't give him the outcome of a dispute about a cash withdrawal made on 17 August 2020.

the account closure

Given the way in which Mr M operated his account and the outcome of the fraud claims NatWest made a commercial decision to close it. I thought it was entitled to do so under the terms and conditions.

I wasn't satisfied that NatWest did enough to help Mr M in getting the remaining funds from his account. It hasn't persuaded me that they have been returned. While it says it sent a closure notice to Mr M with a form to complete it has only provided a template letter saying the account would be closed in 14 days when it was in fact closed after two months.

I found Mr M's testimony about going to a branch to try and obtain funds and not being helped convincing. I couldn't see why he would otherwise not try and do this. And he would in any event have needed to provide identification to a branch to receive this money. I was struggling to understand why he wouldn't otherwise have received this money. There's been no suggestion that the money was other than genuinely his. And it clearly included his compensation.

He has additionally explained his difficult personal circumstances and the need to borrow money from friends and family during this time.

So, I said I intended to direct that NatWest pays him the outstanding amount if he supplies his current bank details. I also thought he has been caused needless distress and inconvenience by being deprived of this money and I intended to award a further £250 in compensation to reflect this. I thought that this in combination with the £100 he has already received for the poor service is reasonable.

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.

NatWest said it accepted my provisional decision.

Mr M made a number of further points. He said he wanted to know the location of the transactions and the time. This would help to pinpoint whether it was him and so who made the withdrawals. NatWest didn't tell him this so he couldn't go to the police with the relevant details. He is unhappy he wasn't refunded for the earlier withdrawals and thought that there were four payments.

Mr M said he took into account what I'd said in the provisional decision but didn't think that this was reasonable given what he'd been through. He wasn't told his account would close and he would lose access to online banking.

I have considered those points carefully. I've also listened again to the recordings of calls Mr M had with NatWest. He was told that he could report the matter to police as this would enable CCTV to be obtained provided this happened in a month. I didn't hear him ask for the specific locations of any of the withdrawals. I don't see why NatWest wouldn't have given this either to him or to the police in any investigation.

A key issue I've referred to is how his PIN could have been discovered. CCTV might have helped him identify someone known to him if they were using his card. There will be no CCTV now. And the location of those withdrawals doesn't now assist in determining how a person would have been able to discover his PIN. I still don't see a basis to find that these withdrawals weren't authorised by him.

NatWest says it wrote to Mr M to say his account would be closed and that would involve the loss of any access. I can't now resolve why he says he didn't receive any notice at the time. But as I've said I was satisfied he then pursued the withdrawal of the remaining funds in a branch knowing he couldn't use that account.

I set out above what I said in my provisional decision about the position regarding the withdrawals in August 2017. I note what Mr M says but don't have anything else to add to my reasoning about this.

I took into account what Mr M had put forward about his personal circumstances in my provisional decision and that I was dealing with him not being able to receive the balance in his account. He's not persuaded me based on what he's now said to alter the amount of compensation as I still consider this to be reasonable. I appreciate this will be a disappointment for him.

My final decision

My final decision is that I uphold this complaint in part, and I require National Westminster Bank Plc to:

- 1) Pay Mr M the residual amount now due to him after the closure of the account.
- 2) Pay Mr M a further £250 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 16 May 2022.

Michael Crewe
Ombudsman