

The complaint

Miss B complains that her bank National Westminster Bank Plc (“NatWest”) has refused to refund the money she has lost following her being the victim of a scam.

What happened

The background of this complaint is well known to all parties, so I won’t repeat what happened in detail.

In summary Miss B was considering an investment in crypto and saw an advertisement for a business called Traders Pros. Miss B clicked on the advertisement and left her contact information. An introduction call then took place.

A relationship was established between Miss B and Traders Pros via the telephone. Miss B was initially asked to transfer a relatively low amount before transferring larger sums from her NatWest account to two separate businesses namely Bitxtech and Speedybits. Both were legitimate businesses that provide platforms to customers to buy cryptocurrency.

Funds were later transferred from these legitimate platforms to Traders Pros which turned out to be a scam.

Miss B made payments for the following amounts:

1. 18 January 2021 - £229.26
2. 20 January 2021 - £6,875.46
3. 25 January 2021 - £4,587.71
4. 25 January 2021 - £4,587.70

Our Investigator considered Miss B’s complaint and thought it should be upheld. While she accepted it was not possible to request a chargeback for the payments Miss B had made, she thought NatWest should have stepped in when Miss B made the first large payment of over £6,000. She said this was an irregular payment and not consistent with the way Miss B usually managed her account.

Our Investigator said that if NatWest had stepped in it’s likely any loss after the first payment of £229.26 would have been prevented. So, she said NatWest should refund Miss B all the payments that followed the initial £229.26 payment she made.

Miss B accepted our Investigator’s view. NatWest didn’t respond. So, this complaint has been passed to me to decide.

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.

The circumstances of this complaint are not in dispute and the evidence provided by both Miss B and NatWest set out what happened well. What is in dispute is whether NatWest should refund any of the money Miss B has lost because of this scam.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately arbitrates on a dispute if it can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Miss B was dealing with the Traders Pro which was the business that instigated the scam. But Miss B didn't make the debit card payments to Traders Pro she paid separate cryptocurrency payment processors. This is important because NatWest was only able to chargeback against the merchant she paid, not another party (such as Traders Pro).

The service provided by the merchants would be to convert or facilitate conversion of Miss B's payments into cryptocurrency. Therefore, the merchant she made the payments to did provide the service that was requested; that being the purchase of the cryptocurrency. The fact that the cryptocurrency was later transferred elsewhere – to the scammer – doesn't give rise to a valid chargeback claim against the merchants Miss B paid.

NatWest has explained it has sophisticated fraud prevention measures in place to protect its customers but that they were not triggered by any of the transactions related to this scam and so I've thought about whether that was reasonable.

Miss B made payments to two legitimate businesses throughout this scam so I wouldn't expect payments going to these businesses in general to be of any concern to NatWest. I am persuaded that the first payment of £229.26 would be unlikely to have raised any concern.

However, the second payment Miss B made was for a much higher amount (£6,875.46). This larger payment was inconsistent with the way Miss B usually managed her account and was for a considerable amount.

I think this larger payment should have been sufficient for NatWest to have intervened to check that all was well. At this stage NatWest should have stepped in and asked Miss B in depth questions to find out what the payments related to

Had NatWest spoken to Miss B about the payment she was attempting to make I think it's likely Miss B would have explained the circumstances leading to the payment including that she was working with Traders Pros, and I think it's likely NatWest would have been able to prevent Miss B from incurring any further losses.

With the above in mind, I think NatWest should refund Miss B for all payments that were made in relation to this scam from her account following the first payment of £229.26.

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions (see s.1C(d) of our enabling statute, the Financial Services and Markets Act 2000).

In the circumstances I don't think it would be fair to say Miss B contributed to the loss. I say this because Miss B had no previous experience in this type of investment and was lulled into a false sense of security by a business that went to great lengths to appear to be legitimate.

Putting things right

National Westminster Bank Plc should refund all the payments Miss B made into the scam after the first payment of £229.26 was processed as I think this additional loss should have been prevented by National Westminster Bank Plc stepping in.

National Westminster Bank Plc should add 8% simple interest per year to the amount it pays Miss B from the time Miss B made the payments to the time National Westminster Bank Plc provides the refund (less any lawfully deductible tax).

My final decision

I uphold this complaint and require National Westminster Bank Plc to refund Miss B as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 10 February 2023.

Terry Woodham
Ombudsman