

The complaint

Mr and Mrs W have complained National Westminster Bank plc won't reimburse money they lost as the result of a scam.

What happened

Mr and Mrs W hold a joint account with NatWest. Mrs W received a phone call from someone saying they were from the police. They told her that her card had been used to buy a laptop and they were concerned fraudsters had copied her cards and would now be able to access all her money. Mrs W was initially sceptical and advised to phone 999. This was to show her how seriously this issue was being taken. She did this and believed she was put through to the Serious Fraud Office.

She was asked about the accounts she held. She was then advised to take out money from her bank to keep it safe. Mrs W was also provided with a cover story to provide to branch staff. She was asked to then give this cash to someone who'd come round to the house. Mrs W went into the branch in town to withdraw £5,800 following the instructions she'd been given by the people she thought were police.

The staff at her branch asked Mrs W some questions about her withdrawal "*being a large amount and unusual*" in accordance with NatWest's procedures. She told them she was buying a whippet puppy for £3,200 and needed the rest to pay for repairs to her boiler which had just been carried out after an annual inspection. She didn't have an invoice but expected to receive one.

After being satisfied that Mrs W hadn't been called by anyone saying they were from her bank, the police or HMRC, NatWest gave Mrs W the cash she requested. That evening she gave this money – along with another £750 she'd taken out at cash machines from three different accounts on her way home – to a courier outside her back gate.

The following day Mrs W received a further call from the scammers but just after was phoned by the genuine police. Although details aren't completely clear it is suspected that the scammers had been under observation by the police and then arrested. Mrs W realised she'd been a victim of a scam and reported this immediately to NatWest. She asked NatWest to reimburse her. They believed there were no suspicious circumstances based on what Mrs W had told them when running through their checklist. Unhappy with this outcome, Mrs W has brought her complaint to the ombudsman service. Mrs W is represented by her son in her complaint but for ease I'll refer to her throughout.

Our investigator reviewed the evidence including the questions NatWest confirmed Mrs W had been asked. She believed there was little more that NatWest could have done.

Still unhappy, Mrs W has asked an ombudsman to consider her complaint.

I completed a provisional decision on 31 January 2023. I believed NatWest should have taken further action to intervene in this case. I asked NatWest to reimburse Mr and Mrs W £6,050.

In response, NatWest offered to pay £2,600 as a gesture of goodwill. They questioned a few other aspects of what happened including saying they had no evidence to show Mrs W had withdrawn £250 from her NatWest account.

Mrs W rejected this offer but accepted the outcome of the provisional decision. She also clarified a number of points around what had happened and what NatWest had said.

I now have enough information to complete 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.

Having done so, I've come to the same conclusion as I did in my provisional decision. I'll explain why and also cover the issues raised by both NatWest and Mrs W where relevant.

There's no dispute that Mrs W used her debit card to withdraw £5,800 from a NatWest branch. She also withdrew £750 from three cash machines. This was withdrawn as three lots of £250 from three different accounts. One of those £250 withdrawals came from Mr and Mrs W's NatWest account. NatWest say they can't evidence this withdrawal. I can confirm, however, this was noted as a transaction on 5 October 2021 (but completed on 4 October) on the transaction list NatWest provided to our service along with their other evidence.

At the time she believed she was doing this to keep her funds safe from someone who had access to her card details and therefore her accounts. And whilst nobody disputes Mrs W has been the victim of a scam, I'm satisfied Mrs W instructed NatWest to give her the cash. The evidence shows that NatWest followed her instruction after taking some steps to understand why Mrs W was making this transaction. I explore this further below.

It's accepted that NatWest has an obligation to follow a customer's instructions. In the first instance Mrs W is presumed liable for her loss. I say this because Mrs W made the withdrawal herself. But that's not the end of the story.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider that NatWest should:

- have been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions are generally more familiar with than the average customer.
- in some circumstances, irrespective of the payment channel used, have taken additional steps or made additional checks before processing a payment, or in some cases declined to make a payment altogether, to help protect its customers from the possibility of financial harm.

Mrs W fell victim to a sophisticated but not unknown scam. I can also see from the testimony her son has provided that Mrs W was initially cautious. I should stress here that this testimony came from Mrs W but provided to our service by her son as her representative. I

only say this as NatWest wondered how Mr W knew this. I don't doubt this is Mrs W's direct testimony. It was only when she supposedly spoke to the Serious Fraud Office – although this remained the fraudsters taking advantage of Mrs W – that she believed what she was being told and did what she was asked. She believed she was taking steps to secure her funds.

However I also note that Mrs W realised pretty quickly that things weren't as she believed. The scam was reported to NatWest the following day after Mrs W had spoken to the genuine police.

I'm aware that NatWest has procedures in place to check unusual transactions and cash withdrawals. In fact they've confirmed to us that as this was "*a large amount and unusual*" they ran through a checklist of questions with Mrs W. These were to understand Mrs W knew what she was doing and was giving her instruction to withdraw cash willingly. In fact NatWest calls these steps *My Customer Protection Checks*. The staff member dealing with Mrs W confirms and signs these checks were undertaken and a senior authorised person – in Mrs W's case, the branch manager – also confirms their completion.

I have reviewed the checks NatWest has in place.

NatWest has given us the checklist they went through with Mrs W. I've also seen testimony from both members of staff who having reviewed the checks and having both spoken to Mrs W confirmed they were "*satisfied to proceed*" and gave Mrs W her cash. I should add that this testimony was completed more than four months after Mrs W made her withdrawal, but I appreciate why in one instance the staff member predominantly dealing with Mrs W would recall her.

I note Mrs W remains unconvinced that she talked to any other staff member than the one who was dealing with her request. The *branch manager* was asked to bring over more cash but she didn't interact with him.

Mrs W is an older woman, doesn't often attend the branch to withdraw cash and in fact has no record of doing this over the previous two years. However her age alone might not be an indicator of vulnerability. But the bank would know that older customers are more likely to be victims of scams and that customers are often provided with a very convincing story of why they would need so much cash. This is what I believe happened here.

Mrs W confirmed she needed the money to pay for a whippet puppy, costing £3,200, and to pay for boiler repairs. £2,600 for boiler repairs strikes me as a substantial amount to be paying without either an invoice or in fact paying by any other means but cash. I should add here that Mrs W has said she didn't specify two amounts for the two different things she was purchasing. Banks are prompted to keep an eye out for potential rogue traders. These are most likely to require cash payment. Although Mrs W hadn't fallen victim to a rogue trader scam, I still think I'd have expected NatWest to have probed a little further on this aspect. There's no evidence this was done.

Also nobody appears to have thought it was unusual that Mrs W – taking into account her age – would be buying an expensive puppy. And I think I may know why this could have been missed. The person Mrs W was dealing with at the branch counter was being persuaded at home to buy a whippet for her family, so they discussed the suitability of such a pet. Mrs W has denied she showed or saw any photos of puppies during this exchange, but I'm not persuaded this matters. The key thing is I believe the discussion about how lovely whippet puppies were meant not enough attention was being paid to Mrs W being a victim of a scam. I remain concerned that no-one really thought about the overall feasibility – and the coincidence of two large bills appearing at once – of Mrs W's story.

I know Mrs W's son has wondered why NatWest thought it appropriate that a vulnerable customer was allowed to go through the streets of a major market town holding as much cash as she did. I have some sympathy for this view. It's not clear that NatWest offered her any advice about keeping the money secure as she went home. I should also add though it would not be fair and reasonable to place such a responsibility on the bank alone.

The checklist means that Mrs W was asked upfront whether she'd had a call from someone saying they were from the police. She denied this was the case. I know her son has wondered whether this question was in fact ever asked but I see no reason to doubt it from what I've seen of NatWest's evidence. I'd also expect the scammers to have briefed Mrs W to answer in this way. And importantly in Mrs W's mind I don't *believe* she thought they were saying they were from the police as she'd been satisfied they were the police.

Overall I do think there's enough evidence to suggest NatWest should have taken additional steps to probe further about what was going on here. A bank is always in a better place than an individual customer to appreciate the complexity of scams. And in this instance this is a scam of a type banks have seen before. I have considered whether Mrs W insisted that she was perfectly capable of making her own decisions to manage her money and that stance could have deterred NatWest from taking this next step. But I've seen nothing to suggest Mrs W made such statements. I know Mrs W is concerned I may be accusing her of being bolshie. I can reassure her I'm not, rather considering all possibilities which could have influenced what happened.

There would have been different options open to NatWest. They could have taken Mrs W to another room to discuss things in private. There they could have asked additional questions to their checks to get a better idea of what was in Mrs W's mind. Or they could have invoked the banking protocol. This would have resulted in the police being called to discuss what was happening with Mrs W. I think the combination of potential rogue trading and the infeasibility of a puppy purchase should have meant NatWest took this step.

I have no doubt – despite what Mrs W told NatWest – that faced with the actual police, Mrs W would have quickly realised she was being scammed. I say this because she quickly realised the following day this was the case after speaking to the genuine police.

On balance and based on the evidence I've seen, I do believe NatWest could have done more.

Putting things right

If NatWest had done more, I believe this would have meant that Mrs W would not have lost £5,800. In addition, she wouldn't have gone to three cash machines to withdraw a further £750. £500 of this money didn't come from a NatWest account but £250 did and I think NatWest should refund this amount too.

My final decision

For the reasons I've given, my final decision is to instruct National Westminster Bank plc to refund £6,050 to Mr and Mrs W.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W and Mr W to accept or reject my decision before 9 March 2023.

Sandra Quinn
Ombudsman