

The complaint

Mr A complains National Westminster Bank Plc failed to act when his account showed signs of excessive gambling.

What happened

The Investigator set out the background to this complaint in detail, so I won't repeat it again here. Instead, I'll provide a summary of the key points.

Mr A held a current account with NatWest. Between June 2019 and August 2019 Mr A made numerous transactions to betting operators. The amounts ranged in value from £500 to £10,000. The movement on the account indicates the funds for the gambling transactions came from Mr A's income, savings, investments and from a loan for £25,000. The transactions stopped in August 2019.

In October 2021 Mr A raised a complaint with NatWest. Mr A explained that the activity on his account was significantly outside his usual pattern of spending between June and August 2019. Mr A says NatWest should've noted this and intervened, as if it had it could've prevented him from incurring losses. In particular Mr A says he was vulnerable at the time due to his mental health conditions and difficult employment situation. In order to resolve his complaint Mr A says NatWest should refund his losses of £32,669.80 and pay the recommended 8% statutory interest. Mr A also feels he should be awarded £3,500 for the distress that he has suffered.

NatWest reviewed Mr A's concerns and didn't agree it had acted unfairly. It explained that Mr A was gambling his own money and that gambling is not a prohibited activity. It said it was not aware of Mr A's mental health condition and it isn't persuaded that any intervention from it would've altered Mr A's behaviour at the time.

Dissatisfied with NatWest's response Mr A referred his complaint to our service. An Investigator reviewed Mr A's concerns and found that the activity was unusual and it would've been fair for NatWest to contact Mr A about the transactions. However, the Investigator found it was not possible to determine what impact this would've had. They recommended NatWest pay Mr A £200 in recognition of the impact this failing had on Mr A. NatWest accepted this recommendation.

Mr A remained unhappy with the review of his complaint and asked for an ombudsman's decision.

I issued my provisional decision on 7 March 2023, which I have included below.

Provisional Decision

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The Investigator explained there wasn't any indication Mr A was facing financial hardship at the time the excessive gambling transactions took place. Having reviewed Mr A's account

history, I agree with this – Mr A was generally managing his finances well and there were no signs of Mr A struggling with payments.

I have then gone on to consider the main crux of Mr A's complaint – the lack of intervention from NatWest when he carried out excessive gambling. Mr A's statements prior to June 2019 show general spending on the account and transfers between his accounts. There is a regular direct debit for the lottery. But in the three years leading up to June 2019 I can't see any signs of regular or by any means significant gambling.

The statements available show that the 28 June 2019 saw a pivotal change in Mr A's spending. From this point onwards Mr A was spending excessive amounts on gambling. For example, on 29 July 2019 Mr A gambled £60,000 online. Mr A was also moving large amounts of money between accounts to fund this gambling. These transactions didn't trigger any alerts for NatWest and prompt it to get in touch with Mr A. It is clear the activity on his account changed significantly and I think at this point NatWest should've been in touch with Mr A to discuss the recent activity on his accounts to see if there was any potential for vulnerability. The FCA requires businesses such as NatWest to be alert to changes in behaviour and the potential for customer vulnerability.

The next key question is whether any pro-active steps by NatWest would've made a difference to Mr A's behaviour, and in turn the losses he experienced. Mr A has provided a detailed psychiatric report which outlines the health issues he was experiencing at the time. Within the report there is reference to Mr A's mental state at the time of the transactions. It reads: "there is good evidence to suggest that Mr A's mental health was significantly affected during June-August 2019 by considering his medical records at the time, his established psychiatric diagnoses as well as his prior treatment response to/ natural history of these, recent medication changes and the stress upon him at the time resulting from his highly distinguished career being threatened. The report provides details of Mr A's health conditions and the impact these have on his behaviour. The report then summarises with the following points: Overall, despite the absence of a standardised cognitive screening tool and contemporaneous capacity assessment, I consider it likely that the nature of Mr A's betting behaviour in July-August 2019 was related to compromised cognition and capacity secondary to his diagnosed mental health difficulties as well as more proximal stressors.'

Based on the evidence I have seen I am minded to uphold this complaint. I think NatWest failed to recognise Mr A's vulnerability at the time. As outlined by the medical health professional within the report Mr A was under extreme stress which in his opinion had an impact on Mr A's capacity and decision-making abilities. Ultimately, the activity on the account was enough to alert NatWest that something had shifted in Mr A's circumstances and it failed to take adequate steps to assist Mr A. In Mr A's specific case I think there is enough evidence to say that intervention could've prompted a change in Mr A's behaviour and thus reduced the gambling losses Mr A experienced. The fact Mr A's gambling abruptly ends towards the end of August 2019 further demonstrates Mr A was experiencing an abnormal episode in his spending behaviour.

Responses to the provisional decision

Mr A's representative responded accepting my provisional decision. They explained there was a total loss of £55,391.80.

Mr A's representatives also requested NatWest pay 8% interest on the losses Mr A has incurred. They also requested a distress and inconvenience payment, and for its professional costs to be covered.

NatWest responded and explained that its records showed a loss of £32,309.80. NatWest offered to make a good will gesture offer and reimburse Mr A £16,154.90 – half the losses he incurred.

As both sides have responded to my provisional decision, I will now issue my final decision on the 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.

Mr A's representative has asked for Mr A's legal fees to be covered. I appreciate Mr A has incurred legal costs, however our service is free for consumer's. Mr A made the decision to appoint a legal representative, but this wasn't necessary and would not have impacted our review or Mr A's complaint. So I don't think this is a cost NatWest should be held responsible for.

Mr A has also requested a distress and inconvenience payment, as this has been a long and arduous process for Mr A. I understand Mr A's complaint has been on-going for some time. However, complaints are by their very nature time consuming and it doesn't always follow that a complaint being found in a consumer's favour means additional compensation is due. I've considered the timeline of events and NatWest's handling of the case, and I haven't seen anything in the circumstances of the complaint that warrants a separate distress and inconvenience payment.

I've also considered NatWest's offer of half the losses incurred by Mr A during the relevant period. I don't think this goodwill offer is adequate. As outlined in the provisional decision, I think NatWest should've acted when the activity on Mr A's account changed significantly.

There is also a significant discrepancy between the figures for gambling losses provided by Mr A's representative and NatWest. Having reviewed Mr A's statements, I'm satisfied the key date is 28 June 2019, and NatWest should calculate any losses from this date up to 31 August 2019.

Putting things right

National Westminster Bank Plc should compensate Mr A by taking the following steps:

- Review Mr A's statements from 28 June 2019 onwards and compensate Mr A for any gambling relating losses he has incurred up to 31 August 2019.
- Apply 8% interest simple on the losses Mr A has incurred up until the date of settlement.

My final decision

For the reasons given above, I uphold this complaint and require National Westminster Bank Plc to put things right by doing what I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 28 April 2023.

Chandni Green
Ombudsman