

The complaint

Mr C complains that National Westminster Bank Plc ('NatWest') won't reimburse a payment he made from his bank account.

What's happened?

Mr C says that a close and trusted friend recommended a business I'll refer to as 'C', to carry out work on his van. C had previously completed work on his friend's van to a high standard. Mr C saw pictures of C's other work on its website and on social media, and he thought that had all been carried out to a good standard too. So, he travelled to C's workshop to meet the owner and instruct work on his own van. A total price for the work was agreed and Mr C paid a £6,100 deposit via faster payment, to cover the cost of materials.

The work was due to commence in January 2022, but it was delayed a number of times for different reasons. In April 2022, Mr C was told that C was closing down and he would receive a refund of the money he'd paid. But he says this has not been received.

Mr C raised a fraud claim with NatWest in mid-2022. NatWest declined to reimburse him under the Lending Standards Board's Contingent Reimbursement Model ('CRM Code'). It said that Mr C has not been defrauded here. He's made a payment to a genuine business that has ceased to trade. So, this matter is a civil dispute between Mr C and C.

Mr C referred a complaint to this Service which our investigator considered but didn't uphold in full. In summary, he said that:

- this matter is a civil dispute between Mr C and C, and NatWest is not responsible for refunding the disputed payment.
- the £100 compensation NatWest has offered for starting the faster payment recovery process in error when Mr C first contacted the bank about this matter is fair.

Mr C didn't accept what our investigator said. He acknowledged that C was a legitimate van renovation business but said that its owner set out to defraud him – taking his money with no intention of providing the service he'd paid for.

The complaint has now 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.

In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations; regulator's rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Having looked at everything, I can see no basis on which I can fairly require NatWest to

refund the disputed payment. I appreciate that this isn't the outcome Mr C was hoping for, but I'll explain my reasoning below.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

When NatWest processed the disputed payment, it was complying with Mr C's instruction. At the time, Mr C wanted to pay C and there was no mistake made as the money was sent to the correct account details. As I don't think NatWest acted incorrectly by making the payment, I've gone on to consider whether the bank should have refunded Mr C for any other reason, but I don't think it should have.

NatWest has signed up to the CRM Code, and it was in force when the disputed payment was made. Under the CRM Code, the starting principle is that a firm should reimburse a customer who has been the victim of an Authorised Push Payment ('APP') scam. But the CRM Code is quite explicit that it doesn't apply to all APPs. It says:

"DS2(2) This code does not apply to:

(b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."

I understand why Mr C feels he has been scammed, but from what I've seen, I don't think I can fairly say that the situation Mr C finds himself in is a scam, although I accept and acknowledge that he hasn't received the service he paid C for. I think the disputed payment forms part of a civil dispute between Mr C and C. I say this because Mr C says that he visited C's workshop, so he saw its operation being run, and that he met the owner. He also says that he saw several examples of work that C had completed to a high standard – including for a close and trusted friend – before making the disputed payment. I've looked at evidence from the receiving bank and although I can't divulge details of what I've seen, I'm satisfied that:

- there is evidence of business-related activity on the account statements both before, and after, Mr C made the disputed payment.
- there have been no other fraud reports on the account.

I'm persuaded that the available evidence shows Mr C paid a legitimate business for a service which unfortunately wasn't provided. I haven't seen any convincing evidence that C obtained Mr C's money without any intention of carrying out the required work. I think it's most likely that C intended to do the work Mr C paid for when the disputed payment was made. As such, I'm not satisfied that Mr C has been the victim of an APP scam and I don't think NatWest is responsible for reimbursing Mr C because of any obligation under the CRM Code.

Mr C has my sympathies. He's found himself in an unenviable situation. But overall, I don't think that there's been a banking error in terms of the disputed payment. I can't see any fair or reasonable grounds on which I could say that NatWest should bear the responsibility of Mr C's loss.

Finally, I'm satisfied that the £100 NatWest has offered to pay Mr C by way of compensation for starting the faster payment recovery process in error is fair and reasonable in light of the resulting trouble and upset Mr C is likely to have experienced.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part and instruct National Westminster Bank Plc to pay Mr C £100 in compensation for starting the faster payment recovery process in error.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 14 March 2024.

Kyley Hanson
Ombudsman