

## The complaint

Miss G complains that National Westminster Bank Plc are holding her to the terms of a loan she says she didn't apply for, that they allowed unauthorised payments from her account, failed to identify suspicious activity and kept her account blocked longer than they should have. She also thinks NatWest's lending decision was irresponsible.

## What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here. In November 2022 NatWest agreed a loan in Miss G's name. The loan was for £25,000 with a term of 48 months. The monthly repayments were around £585. The loan funds were paid into Miss G's NatWest current account on 23 November 2022. From there the loan funds were moved between other accounts (with 'R' and 'N') that were also in Miss G's name before being paid to a cryptocurrency exchange.

Miss G says she didn't apply for the NatWest loan or move the funds on from her account. She explains that she had become involved in a cryptocurrency scam. She says that multiple loans were taken without her consent and that she first became aware of this on 25 November 2022 when the scammer told her he'd taken the loans and had invested them in cryptocurrency. NatWest say Miss G initially informed them of this on 30 November 2022 at which point her accounts were blocked as a fraud prevention measure. Their January 2023 complaint response said that the blocks ought to have been lifted sooner, but weren't, they later (in July 2023) offered £400 compensation for this.

The matter was referred to our service and was considered by one of our Investigators. Whilst she didn't agree with many of the points Miss G had raised, the Investigator recommended that the compensation should be increased to £500. Miss G didn't accept this outcome and so the case was passed to me to decide. In February 2024 I issued a provisional decision in which I said:

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

*I'm aware of Miss G's linked complaints and have familiarised myself with the broader circumstances. But this decision only relates to the actions of NatWest. Overall, I'm intending to reach a similar outcome to that of our Investigator. But as there is a slight difference, I'm issuing this provisional decision to give both sides a further opportunity to comment before finalising my decision.*

*Miss G hasn't been able to provide a great deal in terms of documentary evidence of what she said happened between her and the scammer. She says this is in part because the scammer used messages that delete themselves after a period of time and also because she was advised to wipe her phone as a security precaution when the scam was discovered. In light of this, Miss G's testimony is an important factor in the consideration of this complaint.*

*Broadly speaking Miss G's testimony to our Investigator was as follows. She responded to an advert on social media and was contacted and talked through the process of investing. This involved downloading screen sharing / remote access software on both her computer and phone. After her initial investments showed good returns, she wanted to withdraw her money. She says at this point the scammers were pressuring her to put more money in and asked her to take a loan to invest more. When she declined to do this, she says the scammer told her he had already taken four loans in her name (one of which was the loan with NatWest), which had been used to purchase cryptocurrency that he was now trading for her. Miss G says she didn't move any of the loan funds on and that this was all done by the scammer, presumably through the screen sharing / remote access software. Miss G says the scammer told her that he needed her help to "push through" a further loan from 'B' and that those funds would then mean that all her profits could be released. Miss G says she contacted B and chased up the loan funds as requested. These loan funds were then moved through Miss G's accounts before being used to purchase cryptocurrency which she says was then lost to the scammer.*

*I don't find Miss G's testimony evidence to be credible or reliable. I say this for a number of reasons. Miss G says she had no involvement in or knowledge of the loans in her name until the scammer shared this with her on 25 November 2022. But part of the evidence provided by N on a linked complaint shows that on 23 November 2022 Miss G's mobile banking was logged into using a fingerprint and that her full statements were viewed. At this point two loans she disputes taking would have been visible on the statements as well as the outgoing payments that moved the funds on. The use of a fingerprint to log in would have required physical possession of her phone and isn't something I think likely could have been done remotely as Miss G alleges. And given I'm persuaded that, on balance, it was Miss G on that login, and the evidence provided shows that the statements were viewed, I think if she really had no knowledge of or involvement in those transactions and loans as she now states, she would have disputed this at the time.*

*Further to this there was another login on 24 November 2022 (again using a fingerprint to access the app). And during that session an outgoing payment for £10,000 was made which is one of the ones Miss G says she knows nothing about. And in my consideration of the linked complaint about N, I'm currently more persuaded by the technical evidence and think Miss G instructed that payment. There are other instances of logins to mobile and online banking with N but I won't list them all.*

*Similarly NatWest have evidenced that Miss G's online banking with them was accessed after the loan was issued yet prior to it being reported as alleged identity theft. NatWest say the mobile logins also used biometrics.*

*The NatWest loan application used the same email address for Miss G as the one she has used to communicate with our service. NatWest have said that email address was used to electronically sign the loan agreement. Around the same sort of time other lenders also sent similar emails to Miss G using the same email address, again before she says she knew about the loans. I think it's unlikely all of these emails were missed by Miss G, and it's therefore difficult to understand why the loans weren't disputed when she received information about them. Even if I were to accept everything had been missed, Miss G still took a further five days to report the loan from when she accepts she knew of it. I don't think this supports her statement that she didn't take the loan.*

*Further to this, when reporting what had happened to the businesses involved, Miss G's testimony has changed. Specifically, when she contacted N, their call notes record that she said she was forced to take and then move the loans, before later claiming that she largely had no involvement in this at all.*

*The net result of all of this is that I think Miss G knows more about what went on than she has shared with our service. I find the evidence compelling that Miss G would have known about some of the loans sooner than she says she did. And as I've mentioned, in relation to the linked complaint, I'm not currently persuaded the movement of loan funds (from N) was unauthorised as she's alleged. Accordingly, it is difficult to put much weight on her testimony.*

*So when Miss G tells us she didn't take the NatWest loan out, or move the money on, I find the evidence from NatWest to be more persuasive. I think it's more likely than not that Miss G had involvement in the taking of the loan such that NatWest holding her to its terms is fair. I also think it was reasonable for NatWest not to treat the onward movement of the loan funds as unauthorised payments in these circumstances.*

*I appreciate Miss G thinks NatWest should have done more to highlight the unusual activity of large sums moving through her account. But from what I've seen, there was an established link with multiple previous payments from her NatWest account to both of her accounts with N and R. So whilst some of the sums involved were significant, given the well established links between the accounts, I don't think NatWest not intervening in those payments was unfair or unreasonable.*

*Miss G has also argued that NatWest's lending decision wasn't responsible. I've reviewed Miss G's account statements and I'm not persuaded that the monthly repayments of around £585 weren't affordable for her in a sustainable way, given her take home pay of around £4,300 per month at the time. The crux of Miss G's argument around affordability seems to focus on the numerous other loans taken around the same time and the collective impact of these. But NatWest wouldn't have known about these loans as they wouldn't have been visible to them at the time. So I can't use that as a factor when assessing the decision NatWest took, as this would've been based on the information it had at that point. This doesn't mean NatWest shouldn't now treat Miss G positively and sympathetically in relation to the outstanding debt. But it isn't a basis upon which I can fairly say they should write off the lending or otherwise do more as Miss G would like.*

*When Miss G informed NatWest of what she says had gone on, they blocked her account. And this is what I'd expect in this situation, especially when there is an allegation that her online banking had been compromised. NatWest accept the blocks weren't released as promptly as they should have been. Their complaint response says they were removed in January 2023, whereas Miss G's submissions refer to her account being blocked for 10 months. I've not yet seen evidence of when the blocks were released. But even if I were to accept this part of what Miss G says and that she struggled to access her account for 10 months, I still think the £400 compensation is fair to reflect the impact of NatWest's error and I'm not intending to increase it as our Investigator did.*

*The NatWest account wasn't Miss G's 'main' account into which her wages were paid, so I think the impact of the blocks remaining is less than it otherwise might have been. Particularly as she held other accounts with both N and R (although I acknowledge Miss G has made a similar complaint about her account with N remaining blocked). So taking all of this together, I'm not intending to direct NatWest to increase the compensation they've offered and if this is something Miss G would now like to accept, she should take this up with NatWest.*

*Miss G has raised further points which include her saying it is a loophole that lending doesn't show up straight away on a credit file. She has also commented on a lack of information sharing by NatWest and their actions more recently. Firstly, our service can only comment where NatWest have first had an opportunity to put things right. So if Miss G is unhappy about things that have happened since NatWest issued its complaint response, this is*

*something she needs to take to NatWest in the first instance. And secondly, where matters have already been addressed (or NatWest have agreed to our service commenting, such as the account blocks remaining) I've considered these further points but none of them change my mind as to the outcome of the complaint – this is because I'm currently intending to conclude that Miss G took the lending and made the payments she is disputing."*

NatWest responded and said they had nothing further to add. Miss G responded with some comments that I'll address below.

### **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.

Miss G has argued that the loan isn't recoverable because she says there is no legal contract, it is unaffordable and therefore void. She's made some legal arguments as to why this is the case which include *"lack of consent, impossibility of performance and illegal consideration."*

The crux of Miss G's argument is still largely coming from her position that she didn't enter into the agreement, and my on-balance finding is that NatWest concluding that she did, is fair. So I don't agree that this means NatWest can't pursue the outstanding debt or that the agreement is invalidated.

Miss G has also re-iterated her position regarding the affordability of the loan, she's also said she wants to know how I've concluded this loan was affordable for her. She says that she can't afford five loan repayments. But as I've set out before, my decision is specific to NatWest's lending decision based on the information available to it at the time (which wouldn't have included knowledge of other recent loans). And my conclusion on affordability is based on Miss G's account statements and the income and expenditure spreadsheet she provided to our service. Discretionary monthly spending wouldn't be taken into account when assessing affordability. Miss G's own assessment included nearly £1,000 of monthly spending on *"clothes / footwear, hairdressers, sport, fun money and holidays"* – none of which I would consider to be essential spending in the context of an affordability assessment. I maintain that there was sufficient remaining after essential expenditure and commitments each month to meet the requirements of the loan such that it wasn't unaffordable.

So whilst I would agree with Miss G that NatWest should have conducted more detailed checks prior to agreeing the loan, that isn't in itself enough to mean that the lending was unaffordable or for me to uphold the complaint. I don't think it likely Miss G would have disclosed anything at the time which would have impacted NatWest's decision to lend or that further checks at the time would have resulted in the lending being considered unaffordable.

Miss G mentioned that I acknowledged that credit files aren't updated instantaneously, something she considers to be a 'loophole'. I understand why Miss G says this, but it still doesn't change my mind as to the outcome of this complaint. NatWest would only ever have been able to make a decision based on information available to them. And I can't hold them responsible for the time credit reference agencies might take to update their systems.

I've considered everything Miss G has said, but nothing has persuaded me to deviate from the outcome explained in my provisional decision.

**My final decision**

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 23 April 2024.

Richard Annandale  
**Ombudsman**