

## **The complaint**

Mr B complains that National Westminster Bank Plc won't refund money he lost when he fell victim to an investment scam. Mr B is being represented by solicitors in his complaint.

## **What happened**

The detailed background to this complaint is well known to both parties. The facts about what happened aren't in dispute, so I'll focus on giving my reasons for my decision.

The complaint concerns three payments totalling £6351.35 which Mr B made using his NatWest debit card between July 2021 and January 2022 in connection to an investment opportunity that he says later turned out to be a scam. The account statement shows Mr B also received credits or returns totalling £2,660.66 during that time. Therefore, the loss being claimed for is £3,690.69.

## **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 agree with the conclusions reached by the investigator for the following reasons:

- Under regulations and in accordance with general banking terms and conditions, banks should execute an authorised payment instruction without undue delay. The starting position is that liability for an authorised payment rests with the payer, even where they are duped into making that payment. There's no dispute that Mr B made the payments using his security credentials, and so they are authorised. But in accordance with the law, regulations and good industry practice, a bank should be on the look-out for and protect its customers against the risk of fraud and scams so far as is reasonably possible. If it fails to act on information which ought reasonably to alert a prudent banker to potential fraud or financial crime, it might be liable for losses incurred by its customer as a result.
- I've looked at the operation of Mr B's account. I don't consider the first disputed transaction – for £746.84 on 19 July – was particularly unusual or suspicious such that I think NatWest ought to have intervened. I can see Mr B's representative has also acknowledged that. Looking at his account statement, Mr B then received two credits totalling £1,011.55 from the merchant at the end of September. The next transaction – for £3,921.75 on 26 October – went to a different merchant. Given the length of time that's passed, NatWest can't confirm whether it (or any other disputed transactions) flagged as suspicious. The investigator didn't think the payment ought to have picked up by the bank as the account activity showed payments of similar amounts. But in response to their view, Mr B's representative argued that there were no transactions of similar value in the period leading up to that payment.

- I've reviewed Mr B's account statement and I agree that none of the payments were anywhere close to the transaction amount in question in the year leading up to it. But I don't consider that in and of itself means the transaction ought to have automatically flagged as suspicious. It isn't uncommon for one-off large value payments to be made to a new payee every now and then. Or, for them to be funded by money held in a savings account. This is what happened in this case. And the disputed transaction didn't drain Mr B's account balance in either account. Having thought about this carefully, I haven't seen any other factors at play here such that, in my view, NatWest should have been concerned and ought to have intervened and questioned Mr B before executing his authorised instruction.
- The last transaction – for £1,682.76 – was more than two months after the previous one. Although it went to a different merchant, given the gap between the payments and the amount in question, I don't consider it particularly unusual or suspicious such that NatWest ought to have challenged the payment before releasing it. What this means is that in the circumstances of this case, I don't consider NatWest acted unfairly in executing the payment instructions it received from Mr B. It follows that I don't find it liable for Mr B's financial loss.
- I've also thought about recovery of fund once NatWest became of the situation. It wasn't until April 2023 – more than a year since the last transaction in dispute was made – that Mr B contacted the bank and said he'd been scammed. These were card payments, so the only avenue for recovery would have been a chargeback. But time limits apply to when a chargeback can be raised. Unfortunately, it was already too late for NatWest to attempt a chargeback by the time Mr B notified it of the scam.

I know that Mr B will be disappointed with this outcome. Not least because the matter has been ongoing for some time. Despite my natural sympathy for the situation in which he finds himself, for the reasons given, it wouldn't be fair of me to hold NatWest responsible for his loss.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 7 May 2024.

Gagandeep Singh  
**Ombudsman**