

The complaint

A company I'll call P complains that National Westminster Bank PLC (NatWest) allowed a former director to fraudulently apply for a Bounce Back Loan (BBL), before spending the proceeds on personal items.

To put things right, P wants NatWest to write the BBL off and pay compensation.

P is represented by its director, Mr B.

What happened

When P was incorporated, it had two directors: Mr B and a third-party I'll call M. P applied for an account with NatWest and Mr B and M agreed that M would be the sole account signatory.

In or around March 2020, Mr B and M discussed the possibility of applying for a BBL. Mr B told our service he had agreed with M that P would apply for the loan, and that M had told him that he had to resign as a director in order for the application to proceed. But he said he didn't sign anything or formally authorise an application.

On 4 May 2020, an application for a BBL in the sum of £45,000 was submitted to NatWest, bearing an electronic signature in the name of Mr B. The BBL was approved in full, paid to P's account on 7 May 2020, and the loan funds were spent over the course of the next few months.

Mr B says he didn't know the application had been submitted, nor that the funds had been paid to P and subsequently spent. And that he didn't find out until much later down the line. He told our service the application was submitted by M using falsified details and that the funds were spent without his authorisation.

Mr B provided our service with evidence that M had been arrested for embezzlement relating to the BBL funds, in addition to a further £70,000 over the course of several years. M has not been convicted at the date of this decision, but is due to face trial at the end of 2024.

Mr B complained to NatWest, but it didn't uphold his complaint. It said it had followed the correct processes at the time in line with Government guidance and that the payments appeared to have been made by an authorised party and for business purposes. NatWest did though apologise for poor customer service and paid P £100 in recognition of the inconvenience that caused.

Mr B didn't accept NatWest's outcome, so he brought his complaint to our service. Our Investigator looked at P's complaint, but she didn't uphold it. She said there was nothing that should have alerted the bank that the application wasn't genuine, and that there was nothing in the payments that should have led to NatWest stopping them.

Mr B didn't agree. Among other things, he highlighted the emails sent to our service by the Police regarding M's arrest and said it was NatWest's failure to carry out due diligence that

had caused the loan to be granted. And that NatWest wasn't in a position to comment on whether the transactions on the account were legitimate because it had no understanding of the purpose of P's business.

Our Investigator didn't change her mind though, so the matter came to me to issue 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.

Firstly, I should say that I'm aware I've summarised the events of this complaint in far less detail than the parties, and that I've done so using my own words. The reason for this is that I've focussed on what I think are the key issues here, which our rules allow me to do.

This approach simply reflects the informal nature of our service as a free alternative to the courts. And I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome in this case. So, if there's something I've not mentioned, it isn't because I've ignored it, and I must stress that I've considered everything both Mr B and NatWest have said, before reaching my decision.

I should also say that, while M has not been convicted at the date of this decision, I have no reason to doubt what Mr B has told our service. And the case does not hinge on whether or not M acted fraudulently. Mr B has asked our service to seek more details from the Police relating to this matter, but I don't consider that necessary to reach a fair outcome in this case.

Mr B has made extensive representations about why NatWest should have blocked the BBL at application stage and that the BBL wouldn't have been paid, had NatWest done proper due diligence. However, I'm not persuaded it would be reasonable to uphold this complaint on that basis.

Mr B has told our service that he agreed with M to apply for a BBL and that M resigned as a director in order to facilitate the application. And that what he didn't know was that the application had been submitted and paid and the resulting funds spent. And so, it seems to me that, while I have no reason to doubt what Mr B has told our service about his knowledge of the application going through, Mr B had at least intended for P to apply for the BBL.

Further, I'm not persuaded there was any reason for NatWest to question the application form itself. BBLs were set up to be quick and informal, with the minimum of checks by the banks. Set against that backdrop, I've seen nothing on the application form that was particularly unusual. The email address given matched the name of an account signatory and it included information that was not publicly available, such as P's bank account details. And ultimately NatWest paid the BBL funds to its customer, P, which meant that only those with access to P's account (i.e. people P had elected to run its business) could access the funds.

So, while it is regrettable that Mr B had chosen not to have oversight of P's account, I'm satisfied NatWest took reasonable steps in approving the application, in all of the circumstances of this particular complaint. And I'm not persuaded NatWest ought reasonably to have done more to stop the application proceeding.

Mr B has told our service he wasn't involved with the finances of the business and I accept what he says about the payments out of the account: i.e. that they were made without his

knowledge. However, even if I accept that the application was submitted based on falsified information, it doesn't follow that NatWest should write the debt off. NatWest didn't pay the BBL funds to a fraudster, it paid them to P's account. So, P received the funds and had the benefit of them. And it is for P's directors to ensure the funds in its account are correctly applied.

Further, I'm sorry to say that I don't accept Mr B's argument that the transactions out of the account weren't authorised and that NatWest should have prevented them. When Mr B and M applied for the account, they chose to nominate M as the sole account signatory. Further, M used his debit card that was applied for legitimately and with Mr B's knowledge. So, the payments were made by a person who had authority to make payments (M). That M was no longer a director doesn't matter: a company can appoint non-directors to make payments on its behalf, so there is no duty on NatWest to ensure all payments are approved by a director.

Mr B says NatWest isn't in a position to comment on whether the transactions were legitimate, because it doesn't know P's business. But it is precisely for that reason that I wouldn't expect NatWest to block the transactions that took place on this account. All banks must strike a balance between allowing a company to transact freely and preventing fraud. And I wouldn't have expected NatWest to intervene in the circumstances of this case. While there were several payments to hardware shops as well as various ATM withdrawals, neither those payments nor any other on the account during the relevant period were so out of the ordinary that I think NatWest should have flagged them as potentially fraudulent.

Because there were a number of payments into P's account (£42,355.83) between the date the BBL was paid (7 May 2020) and the date P's account balance reached near zero (29 January 2021: £0.30), it's difficult to work out what payments were made using the BBL funds and what payments were made using P's other funds. But that further supports what I say about the pattern of spending here.

The account balance was cleared steadily over an eight-month period, with no payments that stand out as particularly unusual in the context of a business account. And I've seen nothing that I think ought to have triggered NatWest to consider a payment to be fraudulent, not least because the payments were made by an authorised person named on the account.

Given that M has been arrested and charged with embezzlement relating to P's funds, I accept it's more likely than not that M defrauded P. But that also means that M defrauded NatWest, and for the reasons I've set out above I'm not persuaded NatWest should have done more to prevent the fraud taking place. So, I won't ask it to write off the BBL or compensate P further.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask P to accept or reject my decision before 20 March 2024.

Alex Brooke-Smith
Ombudsman