

The complaint

Miss A complains that National Westminster Bank Plc have unreasonably declined to refund her for transactions she didn't make. She'd like the transactions refunded and for a significant degree of compensation.

What happened

Miss A holds an account with NatWest. In July 2023 she contacted them to say there were transactions to gambling merchants that she didn't recognise. There were seven card transactions totalling £5,200. She said she'd been in hospital at the time and wouldn't have been able to make the transactions.

NatWest investigated but declined to refund her. They said the device that had been used to make the transactions had been used by her before, and the transactions didn't fit a typical pattern of fraud.

Miss A later reported several more transactions as fraudulent – 22 card payments to gambling merchants totalling £10,707.50, between 7 August 2023 and 15 August. She also complained to NatWest about the service she'd received from them, and for having £1,500 credited to her account then withdrawn the next day. She said her regular payments hadn't gone out of her account, because NatWest had allowed the fraudulent payments to go through.

NatWest responded to reject most of the further fraud claims, but they accepted that four payments for £1,500 had been wrongly processed by the bank. They refunded this amount to Miss A. They felt the service she received had been professional but accepted there were miscommunication about the £1,500. They offered her £200 in compensation.

Not satisfied with this Miss A referred her complaint to our service. At this point NatWest also offered to refund £4.15 in bank charges as well from the account being left overdrawn by the £1,500 payments wrongly taken. Miss A declined this offer, saying she thought she'd lost over £50,000 to fraud. She thought NatWest had been manipulating her statements and covering up fraud on her account.

Our investigator thought NatWest's offer was fair. They reasoned that as the same device had been used as for undisputed payments it was more likely than not Miss A had made the transactions herself, as they had been authorised using a known device, from a known IP address. They didn't see that NatWest should refund her for the disputed transactions. They felt the £1,500 refund, along with the £200 compensation and £4.15 in charges was a fair resolution.

Miss A disagreed, saying she had lost £50,000. She said NatWest were adjusting her bank statements. She sent us information about her medical history to show the impact this was having on her. But this didn't change the investigator's mind.

As no agreement could be reached the complaint has 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.

Firstly, I'd like to assure Miss A I've read and considered all her submissions to us. I understand she's also referred to wider issues she's had with NatWest, and other transactions she feels are unauthorised. But my role here is to determine the fair and reasonable outcome to her complaint about the transactions to the gambling merchants, and NatWest declining to refund them. That is the subject matter of this complaint before me. So, if I don't comment on something directly it's not because I haven't considered it, it's because I don't feel it necessary to reach a fair outcome on this complaint.

The relevant regulations about payments from an account are the Payment Services Regulations 2017. Broadly, these say that a bank can only take money from a consumer's account when they have authorised a payment from the account. If a consumer doesn't agree to a payment, then generally the bank will be liable for refunding them.

So, the key question for me is whether I think it's more likely than not Miss A agreed to the payments from her account. Having reviewed the evidence I'm satisfied that this is more likely than not the case. I appreciate this will be disappointing to Miss A, but I'll explain why:

- The technical evidence shows that the payments made to the gambling merchants were authorised using mobile banking. The technical evidence shows that the phone that authorised the payments had been used on Miss A's account since June 2023 and had been used to authorise payments that Miss A hasn't disputed – including to some of the same merchants. I'm satisfied this is likely Miss A's phone.
- Miss A hasn't said that she allowed anyone else to use her phone or carry out transactions on her behalf. And I can see the security on the device was being accessed by biometric data. The reasonable conclusion from this is that it was Miss A who was accessing her device.
- The disputed payments are mixed in with undisputed spending and use of mobile banking by Miss A – which means if they were carried out by some unknown third party they would have needed to take and replace her phone on multiple occasions, which doesn't seem likely.
- There doesn't appear to be any benefit to a fraudster to try to commit fraud in this way. Generally, winnings from gambling merchants are refunded to the account they came from, so there doesn't appear to be an obvious way a fraudster can benefit. Likewise, whoever was using the phone seems to have had access to Miss A's mobile banking, so likely could have just transferred the funds from her account directly without involving the gambling merchants. They also would have been able to see Miss A had more funds available to use. So, it seems unlikely this was the work of some malicious third party.

With these points in mind, the only rational explanation I can reach is that Miss A authorised these payments. On that basis, I don't see it's unreasonable that NatWest declined to refund her for them.

There were four payments that NatWest have returned – the explanation for this is unclear. They've variously said these were keyed in by the merchant, or by error by the bank. In either eventuality the bank have already refunded these to Miss A and offered to refund the associated bank charges for going overdrawn. I see this as reasonable.

I agree that NatWest could have been clearer to Miss A about these transactions, and I'm satisfied that the £200 offered is an appropriate way to compensate for this.

I've not seen any evidence that NatWest have passed on Miss A's details to any third parties or helped facilitate fraud on her account. I've seen no credible evidence that NatWest have manipulated her statements, or that there is a significant loss to fraud on her account from these transactions. Having listened to the calls and read the communication between NatWest and Miss A about this dispute, I don't see that the customer service was of such a poor standard that they would need to compensate her further.

I'm sorry to hear of Miss A's ill health, and how she feels this has impacted her. And it's clear she's unhappy with her wider relationship with NatWest. But having reviewed the evidence, I can't say that NatWest have done anything wrong by declining to refund these disputed transactions. As such I'm not going to direct them to do anything further than they've already offered.

My final decision

My final decision is that in addition to refunding Miss A the £1,500, and paying £200 compensation, National Westminster Bank Plc should also refund the £4.15 in bank charges.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 17 April 2024.

Thom Bennett
Ombudsman