

The complaint

Mr T complains that National Westminster Bank Plc (NatWest) is holding him liable for a loan he says was taken out fraudulently.

What happened

The details of this complaint are well known to both parties, so I won't repeat them all again here. But I've summarised the key events surrounding this complaint to give context to my decision.

It's agreed Mr T fell victim to a sophisticated cryptocurrency scam. He was tricked into sending payments to a fake trading platform, thinking his money was being genuinely invested. During the course of the scam, a £8,000 loan was taken out with NatWest in Mr T's name. The funds were paid into his NatWest current account, and were sent on to the scam via another account Mr T holds.

Once the scam was uncovered, Mr T complained to NatWest about being held liable for the loan. He said it had been taken out by the scammers without his permission – and he hadn't moved the funds on. When NatWest didn't agree to cancel the loan, Mr T referred his complaint on to our service.

Our investigator thought the loan could have been taken out by the scammers without Mr T's permission, as he had granted them remote access to his online banking. But NatWest provided a call recording in which Mr T confirmed a payment made using the loan funds – contrary to his claim not to have moved the funds on. The investigator also thought Mr T had cause to be suspicious about the source of the funds.

The investigator recommended NatWest should waive the contractual terms of the borrowing (such as the interest and charges). But she considered it fair for NatWest to seek repayment of the £8,000 principal sum lent. NatWest accepted this, but Mr T didn't. He said he had questioned the scammer, and they had told him the money was from a "crypto loan". And he never received any paperwork from NatWest about the loan. He had been maintaining the loan payments and didn't think it was fair to expect him to repay any more.

The case was then allocated to me. I asked the investigator to reach out to Mr T for some further clarification and to see if he still wanted to appeal. He replied to confirm he still disagreed. He said he was the victim of a scam, so shouldn't be blamed. I then proceeded to issue my provisional decision, explaining why I wasn't minded to uphold this complaint:

I appreciate this will be very disappointing for Mr T – who I fully accept was the victim of a scam. However, what I'm considering is whether it's fair for NatWest to hold him liable for the loan contract, and to seek repayment of the £8,000 it paid into his account.

Following my recent clarification, my understanding is that the loan application occurred as follows: Mr T granted the scammers remote access to his online banking (under the impression they were a genuine investment company). It appears he could see the loan application - as when our investigator asked him about what he could see, he said he did question the scammers about it, but was told they just needed to answer the bank's questions.

As the loan was applied for from Mr T's online banking, I don't think NatWest had cause to be suspicious about the application at the time. It would have appeared as though Mr T was making the application.

It's also not clear to me what Mr T thought the scammers would have been doing, if not applying for a loan, that would require them to answer these questions – or that required them access to his online banking. Mr T's response to my recent enquiry hasn't shed further light on this.

Mr T has told us he thought the loan was a crypto loan, and that the scammers would give the bank a code to pay it all off - seemingly using the money he thought he had made/would make from trading. To me, that statement suggests he therefore did understand a loan had been taken out in his name with NatWest. It's just that the scammers tricked him into thinking it would be paid off by his winnings (so he wouldn't be left at a loss).

I'm also conscious the loan credit appeared on Mr T's statement as "new loan". That matches how the previous loans he had taken out with NatWest appeared on his statements. It also wasn't paid to him in cryptocurrency, but in pounds sterling.

I appreciate Mr T says NatWest didn't email him (or similar) to notify him of the loan. But it seems it would have been visible on his online banking - which he used to subsequently transfer the loan funds on to another account he held (with a regulated firm), before sending them on to the scam. I've also seen a letter he was sent by NatWest on the date of his application, to his correct address, setting out the details of the loan.

In those circumstances, I think Mr T had effectively granted the scammers authority to act on his behalf in applying for the loan. That's because he knowingly granted them access to his account, and appears to have understood they were taking out some form of lending for him.

I do also consider it relevant that, when Mr T first disputed the loan, he denied making the payments. Whereas the call recordings from NatWest make it clear he did. While I appreciate Mr T has been the victim of a scam, I can't overlook that he wasn't upfront about how the loan funds were moved on initially. It makes it harder for me to place as much weight on his testimony, given at the same time, that the loan was applied for without his knowledge.

Mr T now admits he did move the loan funds on. And it seems he did so knowing the funds came from some form of lending – even though he says he didn't know/was tricked about the precise terms. But as Mr T will know from his previous NatWest loans, lenders charge interest in exchange for agreeing to lend.

I did ask Mr T for any further records he has (such as contact with the scammers on this topic) to support whether/why he didn't think the funds were proceeds from a NatWest loan, and what he thought the scammers were doing on his online banking if not applying for a loan. In the absence of anything further on this point, I'm not minded to uphold this complaint.

I don't doubt Mr T was tricked by the scammers, and hasn't received any actual benefit from the loan. However, based on the information provided, I do think NatWest is within its rights to pursue Mr T for the debt under the terms of the loan contract. That's because I think the lending was applied for by someone acting with his authority. And that he also utilised the loan funds by transferring them on.

I appreciate this leaves Mr T in a difficult position. He may still wish to reach out to NatWest to reach some form of arrangement (it has previously suggested it might agree to waive interest and charges if Mr T were to pay the outstanding amount of the principal sum). However, looking at the crux of the complaint brought to me – that Mr T didn't apply for/agree to the loan – I don't think it would be fair for me to instruct NatWest to cancel the lending on this basis.

I invited both parties to submit any further comments or evidence. NatWest replied to confirm it had nothing to add. Mr T responded to explain he disagrees. In summary, he says he is disappointed with the outcome, and feels he is being blamed for being scammed. He says NatWest has let him down as a customer, and referred to previous call recordings he provided in which NatWest wrongly advised him the loan was being removed.

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've decided not to uphold the complaint – largely for the reasons given in my provisional findings, which are set out above and form part of my final decision. So, I'll focus here on responding to the points raised following my provisional decision.

Mr T has been the victim of a sophisticated scam. I understand why it therefore feels unfair for him that he is being held liable for this loan (and other losses which have been considered separately). But I'm not looking at the actions of the scammers. I'm looking at NatWest's role in what happened.

I'm aware of the call recordings Mr T is referring to. But the service issues surrounding what he was told about the loan (and his repayments) were considered by our service under a separate case, which has already been resolved. What I'm looking at here is whether Mr T took out the loan/is bound by its terms.

Again, I would emphasise I accept Mr T has been tricked by the scammers about what would happen with the lending. However, for the reasons given in my provisional decision above, I don't think it holds that this loan was taken out without Mr T's knowledge or consent. I therefore don't think it would be fair and reasonable for me to direct NatWest to write off the lending, as Mr T would like. Or for me to direct it to waive the contractual terms of the lending.

As mentioned in my provisional decision, Mr T may still be able to engage with NatWest about whether it can offer any concessions in the circumstances. But on the issue put to me – that Mr T shouldn't be held liable for the loan as he didn't agree to the application – I'm not upholding his complaint.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 22 May 2024.

Rachel Loughlin
Ombudsman