

The complaint

Mr H complains National Westminster Bank Plc (“NatWest”) failed to follow his instructions by not sending payments bound for humanitarian causes in Cuba. Mr H also complains NatWest closed his account and did so without explanation.

What happened

The details of this complaint are well known by both parties, so I won’t repeat them again here in detail. Instead, I’ll focus on setting out some of the key facts and on giving my reasons for my decision.

In 2022, Mr H attempted to make some payments to Cuba, or a Cuban beneficiary, from his NatWest account. The three transactions Mr H complains about were all returned to his account.

By not processing these transactions, Mr H says NatWest is acting contrary to UK sanctions law as Cuba isn’t a UK sanctioned country but one sanctioned by the USA. So Mr H says NatWest shouldn’t be complying with foreign sanctions.

Unhappy with NatWest’s actions, Mr H complained. In its responses to Mr H’s complaint, the key points NatWest made were:

October 2022 response

- Cuba is on NatWest’s sanctioned list, and it must abide with international laws. And due to USA sanctions, it’s unlikely a payment to a Cuban subject will be sent
- Mr H mentioned three payments in his complaint, but there were other payments to Cuba or Cuban subjects which were also rejected in 2022 due to extra security checks
- Each payment instruction is considered on an individual basis. Mr H can still submit payments for Cuba, but due to sanctions its very unlikely NatWest will be able to proceed
- Mr H’s payment instruction on 1 June 2020 for £1 was rejected due to a sanction compliance issue by a foreign third-party bank. For ease I will now refer to them as “Bank C”. They sent NatWest a message in August 2022 informing it about the rejection. The funds were returned to Mr H’s account on 30 August 2022
- The second payment instruction on 8 July 2022 for 1pence was also rejected by Bank C for sanction compliance reasons. So it was rejected by the final bank like before. The full amount was returned to Mr H’s account on 23 September 2022
- Mr H’s third payment instruction for £18.50 destined for Cuba, which included a £8.50 charge, was held by NatWest’s security checks team. This was rejected and the funds including the fee charged were returned to Mr H’s account on 22 August 2022

- Cuba is a sanctioned country and so anything related to it is subject to extra checks by NatWest. It's unlikely a payment like this will be processed. Bank C rejected Mr H's payments as well as NatWest. NatWest assesses all the transactions it processes to protect itself and its customers, and to ensure it's compliant with laws, regulations, and its internal policies.

This can cause delay. NatWest regrets any inconvenience caused to Mr H because of this. NatWest cannot divulge any other details regarding this

- NatWest is sorry it caused some delay when returning the funds back into Mr H's account. It has credited Mr H's account with £50 compensation, on 21 October 2022, because of this

1 December 2022 response

- Cuba is a sanctioned country. Sanctions are applied by governments or international organisations like the UN and EU to put pressure on countries, regimes, entities, groups, or individuals to seek to change their behaviour.

USA sanctions recognition is prescribed by FCA guidelines – banks across the UK follow the same

22 December 2022 response

- NatWest is unable to provide Mr H with the FCA section that demonstrates its decision rationale as he's requested
- NatWest has sent Mr H its terms of account the pertinent part of which says: *"If we can't make your payment, we'll usually contact you and tell you why or you can call us on [telephone number] to discuss. If we can, we will tell you why your payment can't be made unless there's a legal or security reason which means we can't tell you"*

Unhappy with what NatWest said, Mr H referred his complaint to this service. In January 2022, NatWest sent Mr H a letter in which it notified him that it was closing his account. NatWest said it would do this in two months' time and was doing so in line with the terms and conditions of the account.

One of our Investigator's looked into Mr H's complaint. They recommended it wasn't upheld. In short, their key findings were:

- Financial businesses have various legal and regulatory obligations. And they have several different processes in place to ensure they remain compliant with these obligations. These processes can also lead to payments being placed on hold while additional checks are carried out
- Because of this, NatWest and the intermediary bank were entitled to return the funds in question. So in the circumstances, they haven't acted unfairly
- Due to the involvement of multiple financial institutions and the slow nature of internal communication, delays can happen. But NatWest have appropriately compensated Mr H for this with its £50 award. So it doesn't need to do anymore

Mr H didn't agree with what our Investigator said. In summary, the points he made were:

- His complaint points about the account being closed by NatWest haven't been dealt with - and the reasoning given by the Investigator is very oblique
- The basis of his complaint is that NatWest's legal obligations include an obligation to adhere to the retained EU blocking regulations which make it illegal for UK banks to comply with US sanctions targeting Cuba. No other country imposes sanctions on Cuba and the UK forbids compliance with them
- He is left with no understanding about why his humanitarian donation was blocked, why he's unable to send payments to Cuba, and why his account was closed

In response our Investigator said:

- NatWest isn't obliged to provide Mr H with a reason as to why the transactions were returned
- This service doesn't set the obligations a regulated financial business has to follow. Supervising, regulating, and penalising businesses is the role of the Financial Conduct Authority (FCA). Our role is to ensure the actions taken by regulated financial businesses are fair and reasonable

Mr H said not being able to send money to humanitarian causes in Cuba was distressing to him. And by complaining about it, NatWest has closed his account. Mr H wants his account re-opened, an apology from NatWest and assurance future donations to Cuban causes won't be blocked. He also wants a detailed explanation of why NatWest took the actions it did.

Our Investigator then looked into Mr H's complaint about his account being closed. They didn't recommend this part be upheld. In summary they found:

- NatWest has acted in line with its obligations and terms of account when closing Mr H's account. And it doesn't have to give an explanation
- As the account was closed fairly, NatWest doesn't need to re-open it

As there is no agreement, this complaint has been passed to me to decide.

What I've decided – and why

I'm very aware that I've summarised the events in this complaint in far less detail than the parties and I've done so using my own words. No discourtesy is intended by me in taking this approach. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

If there's something I've not mentioned, it isn't because I've ignored it. 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. I do stress however that I've considered everything Mr H and NatWest have said before reaching my decision.

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 this complaint. I'll explain why.

Returned payment instructions

NatWest has important legal and regulatory obligations it must meet when processing payment instructions for its customers, which includes ensuring no UK or other international sanctions might be breached. Those obligations are overriding in terms of otherwise meeting general timeframes for processing payments. And this is the same for every bank. This does mean that sometimes payment instructions are justifiably declined.

Two out of the three payments Mr H complains about relate to them being rejected by Bank C. My decision deals with any complaint about the acts and omissions against NatWest – not a separate legal entity, and third party, like Bank C.

NatWest processed and sent these payments to Bank C under its internal approach. So it didn't need not have done anymore. I note however that NatWest accept it caused some delay in reallocating these funds amounting to £1.01 to Mr H's account and has paid him £50 compensation for this. I'll consider if I think this is fair compensation later in my decision.

I turn now to the third payment instruction of £18.50 to a humanitarian cause where the beneficiary was Cuban - and that which NatWest itself rejected. As this relates to something NatWest did or didn't do, I can consider whether it has acted fairly and reasonably here.

I'd like to assure Mr H that I've very carefully considered everything he has said about the illegality and unfairness of NatWest declining this payment even if I haven't expressly set-out all his arguments. Nor do I undervalue how strongly he feels about this matter.

But given the obligations NatWest must follow, I'm satisfied it acted in line with them when reviewing Mr H's payment. International payments can expose NatWest to complex international sanctions. And Cuba is a sanctioned country.

After all, NatWest must comply with wide ranging legal and regulatory obligations which include preventing financial crime and complying with international sanctions. If NatWest fails to meet UK and international sanctions it could face serious repercussions. This is more pertinent given it's likely involved in processing internationally bound payments on a frequent basis.

So, given its likely a payment to Cuba could engage with international sanction law, I'm persuaded NatWest has acted fairly and reasonably in returning this payment to Mr H - and not processing it in line with his instructions. I'm also satisfied that by taking the approach it did, NatWest acted reasonably and proportionately in the circumstances.

I note NatWest has refunded £18.50 which included a NatWest fee. I don't think it needs to do any more.

As I referenced earlier, NatWest accept it caused avoidable delay with refunding all three payments to Mr H and so paid him £50 compensation. Our general approach to compensation for being deprived of funds is that a business pays 8% simple interest for the period of loss of access. But given NatWest has paid Mr H £50 already, which is significantly more, I don't think NatWest needs to do any more.

Account closure

NatWest is entitled to close an account just as a customer may close an account with it. But before NatWest closes an account, it must do so in a way, which complies with the terms and conditions of the account.

The terms and conditions of the account, which NatWest and Mr H had to comply with, say that it could close the account by giving him at least two months' notice. And in certain circumstances it can close an account immediately or with less notice. Having looked at the information given to me by NatWest, I'm satisfied it was entitled to close the account in the way that it has done.

I know Mr H would like a detailed explanation as to why NatWest acted in the way it did. But it is under no obligation to do so. I would add too that our rules allow us to receive evidence in confidence. We may treat evidence from banks as confidential for a number of reasons – for example, if it contains security information, or commercially sensitive information. Some of the information NatWest has provided is information we consider should be kept confidential.

Mr H says NatWest's actions have caused him distress and inconvenience. But as I don't think NatWest has done anything wrong in closing the account or rejecting the payment instruction, I see no basis on which I might make a compensation award against it.

My final decision

For the reasons above, I do not uphold this complaint.

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

Ketan Nagla
Ombudsman