

## The complaint

Mr M has complained about National Westminster Bank Plc's won't refund several payments he says he made and lost to a scam.

## What happened

The background to this complaint is well known to both parties, so I won't repeat it in detail here. In summary, Mr M fell victim to an investment scam. He started with an initial debit card payment of £249 as a small investment. Following this between April and August 2023 he made numerous transfers from his NatWest account to another provider ('Bank B'), from there to two cryptocurrency exchanges and then to the fraudsters. Mr M believed he was sending funds to a credible investment firm, that I will call 'N', after seeing a celebrity-endorsed advert on social media. However, Mr M subsequently uncovered the investment was a scam when the fraudsters requested another £25,000 to rescue his initial deposits and financial gains.

The relevant transaction history from his NatWest account statements are as follows:

Transaction	Date	Type of Transaction	Amount
1	3 April 2023	Debit card payment to website ('P.com')	£249
2	24 April 2023	Faster payment to a cryptocurrency exchange	£300
3	24 April 2023	Faster payment to Mr M's account at Bank B	£300
4	26 April 2023	Faster payment to a cryptocurrency exchange	£100
5	29 April 2023	Faster payment to a cryptocurrency exchange	£1,000
6	3 May 2023	Faster payment to Mr M's account at Bank B	£1,250
7	18 August 2023	Faster payment to Mr M's account at Bank B	£20,000
8	19 August 2023	Faster payment to Mr M's account at Bank B	£20,000
9	23 August 2023	Faster payment to Mr M's account at Bank B	£20,000
10	29 August 2023	Faster payment to Mr M's account at Bank B	£10,000

Mr M originally referenced a successful withdrawal from N of \$50 on 1 May 2023. I could not see the withdrawal on any of the NatWest statements supplied to us and when asked he said he had no record of this withdrawal. I've not been supplied with copies of Mr M's cryptocurrency statements so I cannot check if the withdrawal shows within them.

NatWest didn't reimburse Mr M's lost funds and so he referred his complaint to us. Our Investigator looked into things but didn't recommend the complaint should be upheld. They weren't persuaded, on balance, that NatWest could have prevented Mr M from falling victim to the scam. As our Investigator couldn't resolve the matter informally, the case has been passed to me for a final decision.

I'll note here that Mr M referred another complaint to our service in relation to this particular scam. So, in reaching my decision on this complaint, I have taken into account all of the information he has provided our service about this scam.

### **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.

I'm aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focused on what I think is the heart of the matter here. 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 point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I don't doubt Mr M has been the victim of a scam here – he has lost a large sum of money and has my sympathy for this. However, just because a scam has occurred, it does not mean Mr M is automatically entitled to recompense by NatWest. It would only be fair for me to tell NatWest to reimburse Mr M for his loss (or a proportion of it) if: I thought NatWest reasonably ought to have prevented all (or some of) the payments Mr M made, or NatWest hindered the recovery of the payments Mr M made – whilst ultimately being satisfied that such an outcome was fair and reasonable for me to reach.

I've thought carefully about whether NatWest treated Mr M fairly and reasonably in its dealings with him, when he made the payments and when he reported the scam, or whether it should have done more than it did. Having done so, I've decided to not uphold Mr M's complaint. I know this will come as a disappointment to Mr M and so I will explain below why I've reached the decision I have.

I have kept in mind that Mr M made the payments himself and the starting position is that NatWest should follow its customer's instructions. So, under the Payment Services Regulations 2017 (PSR 2017) he is presumed liable for the loss in the first instance. I appreciate that Mr M did not intend for his money to ultimately go to fraudsters – but he did authorise these payments to take place. However, there are some situations when a bank should have had a closer look at the wider circumstances surrounding a transaction before allowing it to be made.

Considering the relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time - NatWest should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and

- scams in recent years, which payment service providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.
- Have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;

So, I've thought about whether the transactions should have highlighted to NatWest that Mr M might be at a heightened risk of financial harm due to fraud or a scam.

I do not think the values of the first six payments were remarkable enough to have caused NatWest any concern. Nor do I consider enough of a pattern formed here to suggest Mr M might be at a heightened risk of financial harm due to fraud or a scam. The payments were not being made in quick succession and were spread out across a number of days. Mr M was also making payments to a number of different places, meaning it wouldn't have appeared immediately obvious to NatWest that the payments were connected. So, I'm not persuaded NatWest reasonably ought to have been concerned about the first six payments.

However, NatWest should have intervened on payment 7 as it was of a value far more significant than Mr M's normal account usage. I would reasonably expect NatWest to have flagged the payment, called Mr M to ask who the payment was for, what it was for, for the basic surrounding context and to then have proceeded appropriately from there. Ultimately, with the intention to disturb or unearth a potential fraud or scam.

I understand Mr M believes the loans he obtained should have flagged as a high-risk factor. However, these loans were taken under the proviso of being used for home improvements. If asked about these specific funds, it would have been very easy for Mr M to be ready with an explanation to reassure NatWest. NatWest would only have seen the funds being transferred to another account in Mr M's own name, which didn't trigger any concern. Mr M would have needed to be transparent with Bank B who could see where the funds were being transferred. I'm not persuaded any conversation around the loans would have uncovered any further details. Mr M was clearly comfortable with the action he was taking.

Therefore, I am not persuaded that an intervention from NatWest would have stopped Mr M from making these payments and losing this money. This is because interventions did take place at Bank B, where the money was transferred to, when Mr M was then transferring the funds from there to cryptocurrency exchanges.

#### Bank B's intervention

Six of Mr M's payments were flagged by Bank B's fraud monitoring systems and he had to discuss them with Bank B before the payment could be released.

I've listened to recordings of conversations that Mr M had with Bank B, when it was concerned about the payments Mr M was making from his Bank B account. In response to Bank B's questioning in these calls Mr M confirmed the following:

- He's buying Bitcoin, which he's done before, and it's going to an FCA approved wallet.
- He has completed due diligence, checked he's dealing with an authorised firm and also the FCA warning list.

- He had researched the company very well and seen positive reviews from others that had invested.
- He has seen returns on his investment.
- He had spoken with a trusted family member or friend, other than any person that recommended this investment to him.
- He has been investing in cryptocurrency for about 18 months.
- He would let Bank B know if someone had suggested he not be honest with his bank.
- The investment was recommended to him a while back, but it took him some time to actually decide to look into it.
- No promise of returns such as products, a large sum of money or job opportunity.
- He hadn't spoken with anyone from the crypto exchange or where the wallet was held.
- He was aware of the risks involved in a cryptocurrency investment, understood he may lose his money, or that it may turn out to be a scam.

Mr M provided reassurances each time Bank B's internal fraud systems were flagged; confirming these were genuine transactions that he had consented to. It's clear from these intervention calls with Bank B that Mr M greatly trusted that the investment he was involved in was legitimate. He made a point, in almost every interaction he had with Bank B, of stating that he had completed transfers many times, had completed due diligence, referenced an FCA regulated wallet and that he understands the risks. And despite being told he may not get the funds back if it turned out to be a scam, Mr M wanted to proceed. He answered any questions asked by Bank B confidently without hesitation. When Bank B questioned Mr M on where he came across this investment; he avoided informing them he was in frequent contact with N and that he came across them via a social media advert. His belief in the legitimacy of the investment clearly did impact his receptiveness to any warnings he received from Bank B.

Had Mr M answered NatWest's questions in the same way, I'm not persuaded NatWest would have been able to stop him from continuing to make payments. I think it would have been difficult for NatWest to have uncovered that Mr M was caught up in a cryptocurrency scam because Mr M gave credible controlled answers which would have more likely than not alleviated NatWest's concerns.

Taking everything into account I don't think NatWest could have prevented Mr M's loss.

### Recovery

I have gone on to consider if NatWest took reasonable steps to try and recover the funds. However, Mr M didn't report the scam to NatWest until his third-party representative contacted NatWest to raise a complaint on 23 January 2024, which was a substantial time after the last scam transaction occurred. This means, although the first payment Mr M made was via debit card, which can offer some protection, the time had passed for a chargeback to be attempted as per the scheme rules.

In relation to the other payments Mr M made, it's important to note he didn't instruct NatWest to send the money directly to the scammers. Mr M completed transfers either directly to his own account within a cryptocurrency exchange, or to an account in his own name with Bank B. Mr M confirmed he also sent the funds from Bank B to cryptocurrency exchanges, with wallets also in his name, to convert into cryptocurrency. All the funds were then sent on to a wallet address provided by N. NatWest would only ever have been able to attempt to recover the funds from where they were originally sent, which were his own accounts. If these funds had not already been transferred to N, they would be in Mr M's control to access as and when he chose. Therefore, I won't be asking NatWest to do anything further.

### The Contingent Reimbursement Model Code

Although NatWest has signed up to the Contingent Reimbursement Model Code, the payments Mr M made from his NatWest account aren't covered by the Code because he made the payments from his NatWest account to his other accounts and not to another person. I cannot fairly and reasonably say that NatWest should have to refund payments under the Code when it doesn't apply here.

So, in light of all of the above findings, there's no fair and reasonable basis under which I can ask National Westminster Bank Plc to reimburse Mr M's loss.

### **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 Mr M to accept or reject my decision before 28 February 2025.

Lawrence Keath  
**Ombudsman**