

The complaint

Mr C, via a representative, complains that National Westminster Bank Plc (“NatWest”) have failed to refund the money he lost as part of an investment scam.

What happened

The details of this complaint are well known to both parties, so I will not repeat everything again here. Instead, I will focus on giving the reasons for my decision.

In summary though, Mr C was introduced via a friend to two companies that purported to be crypto trading firms. I will call these firms B and D.

Mr C then made over 10 transactions via open banking and debit card payment to crypto exchanges between August 2023 and September 2023. These funds were then sent to a crypto exchange and were then sent to B and D.

When Mr C attempted to withdraw the profit that he could see on both ‘platforms’, he was told that he had to pay additional fees. Mr C then realised that he had been scammed by both companies.

Mr C asked NatWest to refund these payments, as he believes NatWest should have done more to prevent him from being scammed in the first place. NatWest did not agree with this.

One of investigators looked into this matter and he thought that given the answers Mr C gave during calls with NatWest any intervention from NatWest would not have stopped the scam. He therefore did not uphold this complaint.

Mr C did not agree with this and therefore his complaint has been passed to me to issue a 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.

Having done so, I agree with the conclusions reached by the investigator for the following reasons.

It isn’t in dispute that Mr C authorised the disputed payments he made from his NatWest account. The payments were requested by him using his legitimate security credentials provided by NatWest, and the starting position is that NatWest ought to follow the instructions given by their customers, in order for legitimate payments to be made as instructed.

However, I’ve considered whether NatWest should have done more to prevent Mr C from falling victim to the scam, as there are some situations in which it should reasonably have had a closer look at the circumstances surrounding a particular transaction. For example, if it was particularly out of character.

NatWest did not intervene until 15 September 2023. Prior to this, numerous large payments had been sent over a course of a few weeks to crypto exchanges. I think that NatWest should probably have intervened earlier on 19 August 2023. I say this because the volume and pattern of payments by that point was indicative of someone who is being scammed. At that point, I think NatWest should have provided a tailored crypto warning based on what he declared the payments purpose as. I think a human intervention was merited when he sent a payment of £8,050 on 22 August 2023.

That said, even if NatWest had intervened, had asked probing questions and had provided crypto warnings, I don't think that this would have stopped the scam. I say this for a number of reasons.

It is clear from the chats between Mr C and the scammers that he was being coached on what to say if his payments were stopped by NatWest.

It is also clear from the tone of his conversations with NatWest that he was intent on making the payments.

I think NatWest should have intervened earlier and asked open and probing questions, but I don't think that this would have stopped the scam. I say this because of the calls that he had with a different account provider. In one conversation, early on in the scam he was told that guaranteed profits were likely a scam and that if anyone asks you to lie to a bank, they are a scammer. So, he was clearly told that what he was doing had the hallmarks of a crypto investment scammer and yet he continued to make the payments despite a clear warning of the risks of what he was doing.

In a further intervention with the other account provider, on 3 and 4 September 2023, a payment was blocked and Mr C was told to attend a branch with ID. During that branch visit, Mr C spoke to the other account providers' fraud team and was explicitly told that what he was doing was 99% certain to be a scam, the member of staff goes on to describe that he will not be able to withdraw his profits and will be strung along and asked to make payments for various fees and will not get his money back. Mr C acknowledges this and says he is aware of this. Yet despite this he then sent further funds to the scammers from his NatWest account instead.

So, I think it likely had NatWest intervened and asked more probing questions, Mr C would have either given answers designed to allay the suspicions of NatWest as suggested by one of the scammers in the scam chat, or had he given accurate answers, he would likely have ignored any scam warning. Also, I think that had NatWest stopped the payments completely, he likely would have sent payments via other means – given how under the spell of the scammers he was. This is demonstrated to me, by Mr C sending funds from NatWest after he ran into difficulties sending funds to the crypto exchanges from his other account provider.

Taking everything into consideration, I think that NatWest should have intervened more than it did, but even had it intervened further, I don't think the scam would have been stopped.

I've also thought about whether NatWest could have done more to recover the funds after Mr C reported the fraud.

NatWest are under no obligation to refund the money to Mr C under the Contingent Reimbursement Model (CRM) Code. This is because the Code does not apply to transfers which the payer has effectively made to themselves. In relation to the debit card payments, they seem to have been made as a means to purchase crypto which he duly received. So overall as he got essentially what he had paid for, I don't think that NatWest could have challenged the payments.

I appreciate this will likely come as a disappointment to Mr C, and I'm sorry to hear he has been the victim of a cruel scam. However, I'm not persuaded that NatWest can fairly or reasonably be held liable for his loss in these circumstances.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 25 December 2024.

Charlie Newton
Ombudsman