

The complaint

Ms H complains that National Westminster Bank Plc ('NatWest') won't refund her after falling victim to a romance scam.

What happened

In January 2021, Ms H fell victim to a romance scam. She was communicating with someone who persuaded her to send him money via money remittance companies.

Ms H says she was vulnerable at the time she met the scammer, having recently lost her father and due to ongoing health conditions.

These are the payments that Ms H made as part of the scam.

Date	Details of transaction	Amount
25.1.2021	Card payment to X	£230.54
2.2.2021	Card payment to R	£72.46
10.2.2021	Card payment to R	£148.15
14.2.2021	Card payment to W	£257.49
15.2.2021	Card payment to R	£740.74
25.2.2021	Card payment to W	£1,009.07

Ms H says it wasn't until some time later that she became aware she'd been the victim of a romance scam, which she reported to NatWest in December 2023.

NatWest considered Ms H's fraud claim but declined to refund her. NatWest say the payments were sent to an account in Ms H's name, so the loss happened on the beneficiary account and NatWest aren't liable.

Ms H wasn't happy with NatWest's response, so she brought a complaint to our service.

An investigator looked into Ms H's complaint but didn't recommend that NatWest refund her. The investigator explained that Ms H's complaint isn't covered by the Contingent Reimbursement Model Code (CRM Code) because the payments were made by card. Also, the investigator didn't feel the payments weren't so out of character that they would have expected NatWest to identify a potential scam risk or to have intervened.

Ms H didn't agree with the investigator's opinion and raised the following points:

- She's entitled to a refund under the CRM Code, which NatWest is signed up to.
- Her mortgage payment was flagged by NatWest which was significantly less than the payments she made as part of the scam.
- As a result of the scam, Ms H has lost trust in people and it has impacted her physically, emotionally, and mentally.
- NatWest knew she was vulnerable and failed to protect her.
- Other victims of similar scams have had large payments refunded to them.

As the case couldn't be resolved informally, it was passed to me to review.

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 really sorry that Ms H has fallen victim to such a cruel scam at an already difficult time in her life and to hear of the impact it has had on her wellbeing.

Did Ms H authorise these transactions?

In broad terms, the starting position in law is that NatWest are expected to process payments that a customer authorises it to make, in accordance with the terms and conditions of the customer's account and the Payment Services Regulations 2017 (PSR's). And, generally, NatWest can hold Ms H liable for the disputed transactions if the evidence suggests it's more likely than not that she made or authorised the transactions herself.

I realise that Ms H didn't know she was the victim of a scam when she made these payments, or that the money would end up in the hands of a scammer. But I'm satisfied, based on the evidence, that Ms H made the payments herself and authorised them.

Authorisation is about Ms H knowing the payments were being made or making them herself using her card details. Card payments are usually only considered unauthorised where someone has obtained a consumer's card details and makes the payments without the consumer's knowledge - which isn't what happened in this case.

Should NatWest have identified Ms H was potentially the victim of a scam?

Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider NatWest should fairly and reasonably have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams.

Also, I'd expect NatWest to have 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). And where a potential risk of financial harm is identified, to have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – as in practice all banks do.

I realise that this is a large amount of money for Ms H, and she feels that NatWest should've identified that she was potentially the victim of a scam. But, based on the information available to NatWest at the time she made the payments, I'm not satisfied that NatWest should've been concerned or intervened.

I say this taking into account the size of the payments individually and in total, the spacing of the payments, the payees used and Ms H's previous account activity. In this case, there weren't a number of payments made in quick succession, ie within minutes of each other - although I appreciate two of the payments were made within a twenty four hour period. Also, these payments individually weren't for such large sums that I think the value of the payments should've concerned NatWest. I can see that previously Ms H had made transfers or payments from her account for similar payment sizes, although those were made to existing payees and weren't common.

I think it's important to explain that NatWest has to find a balance between identifying payments which could be fraudulent and then responding appropriately to their concerns - while ensuring minimal disruption to legitimate payments.

Ms H has highlighted a recent mortgage payment made in 2024, where she was required to enter a password to authorise the payment. Ms H feels that if this payment required an additional authorisation step, when it was significantly less than the payments she made as part of the scam, then NatWest should've been concerned and intervened on the scam payments.

However, in reaching an answer on Ms H's complaint, I can only look at the payments Ms H has raised as part of this complaint and the law, regulators rules and guidance, and what I consider to have been good industry practice at the time of those payments in January and February 2021.

Having carefully considered everything, I'm not satisfied that NatWest should've identified a potential fraud risk when Ms H made these payments or to have intervened. On that basis, I can't fairly say that NatWest could've prevented Ms H's loss.

Is there any other reason I can fairly ask NatWest to refund Ms H?

Ms H has referred to the CRM Code, highlighting what it says about banks refunding customers who have been victims of APP scams. But the CRM Code only applies to Authorised Push Payments (APP), it doesn't apply to card payments - which is the payment method Ms H used. As the CRM Code doesn't apply to card payments, I can't apply it to Ms H's complaint or ask NatWest to refund Ms H under it.

Ms H says NatWest knew she was vulnerable and should've protected her, but I haven't seen anything that suggests NatWest knew Ms H was vulnerable at the time she made her payments in 2021.

Ms H has let NatWest know about her vulnerabilities when she called to report the scam in 2023. But I haven't seen any evidence that NatWest was aware of those vulnerabilities in January 2021.

However, even if NatWest had been aware of Ms H's vulnerabilities when she made these payments - I still couldn't fairly ask them to refund her. That's because I don't think the payments were so unusual or out of character that I would've expected NatWest to have stopped or reviewed the payments. And, for payments not covered by the CRM Code, vulnerability doesn't mean that Ms H is automatically entitled to a refund.

Ms H has referred to complaints brought to our service by other victims of scams, where we've upheld their case. However, each complaint has to be considered on its own merits and the individual circumstances relating to that complaint. So, while other victims of

romance scams may've been refunded by their bank or had their complaint upheld, that doesn't mean that Ms H is entitled to a refund.

Recovery of funds

As the card payments were used to send money to third parties through money remittance companies, NatWest wouldn't have been able to recover the money. So, even if Ms H didn't raise her claim outside the time limits that apply for raising a chargeback, it's unlikely that a chargeback would've been successful.

I say this because Ms H was paying X, R and W to remit money to a third party and they provided the service paid for. Chargeback doesn't look at the ultimate destination of the funds or whose hands the money ends up in, it simply looks at the merchant who takes the payment and whether they've provided the service paid for. Which, in this case, they have.

I am really sorry to hear that Ms H has lost trust in people as a result of this scam, and I would like to reassure her that I have considered all of the circumstances surrounding her vulnerabilities in reaching my answer on her case.

I'm sorry to disappoint Ms H, but I can't fairly hold NatWest liable or ask them to refund her.

My final decision

My final decision is that I don't uphold this complaint against National Westminster Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 5 November 2024.

Lisa Lowe
Ombudsman