DRN-4977738

The complaint

M, a limited company, complains that National Westminster Bank PLC has declined to refund disputed transactions that debited its account in February 2024.

What happened

M is represented by Mr A, one of its directors. I'll refer to Mr A throughout this decision.

In February 2024, Mr A says he was at a work event and his drink was spiked. He says he was taken to an unknown property for four hours and has no recollection of what happened during that period of time.

In the early hours of that morning, three transactions to new payees totalling almost £22,000 debited M's account using Mr A's NatWest mobile banking app. The amounts were sent to other UK bank accounts via faster payment. Another payment for £1,160 was made to a bar using Mr A's personal credit card account that was linked to Google Pay.

After the three transactions had been made, Mr A's wife contacted the bank as she'd seen emails intended for Mr A from NatWest in relation to the payments. NatWest suspended Mr A's online and mobile banking as a result of this contact.

Later that morning, Mr A says he contacted NatWest to report the transactions as unauthorised and asked it to refund the money. He also reported the matter to the Police. NatWest refunded the credit card transaction, but it didn't think it was liable for the loss from M's current account as it believed Mr A authorised the disputed transactions. Unhappy with this, Mr A raised a complaint.

Within its response, NatWest said:

- Its fraud team reached the correct outcome based on how the disputed payments were made.
- If the Police are able to provide any new information to the bank, it may be able to review the outcome again.
- It was sorry that this matter had impacted Mr A's mental health.

Mr A remained unhappy and referred M's complaint to this service. He says he's been targeted by fraudsters and a crime has taken place. He believes NatWest should never have authorised the payments, and it neglected its duty of care. As such, he believes M should receive a refund for the disputed transactions.

But our investigator didn't think NatWest was responsible for M's loss as she felt the transactions had been authorised by Mr A using his face biometrics. Mr A didn't agree and asked for an ombudsman's decision. So it's been passed to me to decide.

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 of our investigator, for the reasons I set out below.

In broad terms, the starting position in law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of their account. And I've taken that into account when deciding what is fair and reasonable in this case.

There is no dispute that in a short space of time, a large amount of money left M's account. The transactions total almost £22,000 and were made in less than two hours, in the early hours of the morning. I appreciate that NatWest has said that all the correct security credentials were used for M's account, so it had no reason to believe the transactions were being made by anyone other than Mr A.

I've carefully considered this point, along with the electronic reports that NatWest has provided. And from these, I'm satisfied that the three disputed transactions (for £6,293, £7,810 and £7,794) were made using Mr A's mobile phone. The NatWest banking application was accessed using Mr A's fingerprint each time, and I'm satisfied that all three payments were processed using Mr A's facial biometrics or 'face ID.' So, I can understand why NatWest believed the transactions were being authorised by Mr A when they were processed.

Mr A says his drink was spiked. And has pointed out that the effect of having your drink spiked is that it can cause an individual to pass out, have trouble controlling their body, experience blackout or memory loss, and can result in becoming unconscious. He's said these symptoms can last for several hours. Mr A has explained that because of this, it's likely he was in and out of consciousness during the period of the disputed transactions, and his eyes could've been open in order for them to be processed via facial recognition. He also says that its highly plausible that the fraudsters could've opened his eye lids to pass 'face ID' for the transactions to be processed. He says he simply has no recollection as he was drugged.

I was sorry to hear of the circumstances Mr A has described. I know he was previously liaising with the Police regarding the transactions, and the Police were also of the opinion that Mr A was most likely drugged. I know the Police have since closed their case because no suspects could be identified, but my decision centres around whether or not NatWest is responsible for the disputed transactions, rather than if a crime has been committed. I accept it's possible that Mr A was targeted by fraudsters for the purpose of taking advantage of him for their own financial gain.

However, even though I accept that this is likely what happened, in view of how the payments were made, (using Mr A's biometrics to not only access his phone but his mobile App (three times), and set up three new payees); I find it more likely than not that he authorised all of the disputed payments himself. Although it's likely that he did so without realising the amounts.

I say this because I don't accept Mr A's argument that the fraudsters could've opened his eye lids for 'face ID' to be used. I find this highly unlikely, as this would involve a person's hands or fingers obscuring Mr A's face, likely resulting in a negative match for facial recognition.

And, whilst it's possible that Mr A could've been in and out of consciousness for the use of 'face ID' to be successful, there are other reasons why I don't think is the most likely explanation.

M's account would've been visible on Mr A's NatWest banking App. I understand at the time of the transactions, he also had a significant balance within a personal savings account, which would've been linked to the same mobile banking session. Whilst the user would've needed to switch from Mr A's business to his personal accounts within the App, I would've expected a fraudster to take full advantage of any money held within any account they could access. But the savings account balance went untouched.

I've also seen evidence that Mr A's mobile banking was accessed four times between 12.20am and 1.32am (using touch ID) without any attempted transactions made. And, considering the three disputed transactions took place over a further (almost) two hours between 1.37am and 3.18am, using Mr A's own biometrics, I don't consider this the activity of an unauthorised individual having gained fraudulent access to Mr A's banking App multiple times over three hours. On the balance of probabilities, I find it more likely that Mr A was aware payments were being made and authorised them himself, without realising the amounts he was agreeing to. However, as I'm satisfied Mr A authorised them, regardless of whether or not he was aware of the amounts, NatWest isn't responsible for any refund.

Should NatWest have prevented the transactions?

Although I consider it most likely on balance, that Mr A authorised the disputed transactions himself, the matter doesn't end there, I've also taken into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time. And I consider NatWest should, fairly and reasonably:

• Have been monitoring accounts and any payments made or received to counter various risks, including money laundering, the financing of terrorism, and fraud and scams.

• Have had systems in place to look out for unusual transactions or other signs that might indicate 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 banks are generally more familiar with than the average customer.

• In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

So, I need to decide whether NatWest acted fairly and reasonably in processing the transactions from M's account using Mr A's mobile banking platform, or whether it should've done something more.

With this in mind, I've looked at M's bank statements for the months leading up to the disputed transactions. Having done so, I don't think the payments made were particularly unusual or out of character given the way Mr A tended to use the business account.

In the months leading up to the disputed transactions, Mr A made a number of faster payments using his mobile banking facility which were similar or higher in value. For example, less than a week before the disputed transactions, sums of £50,000 and £17,080 were transferred out of M's account. And while the disputed transactions were sent to three new payees in relatively quick succession, the payments were not significantly different or unusual such that I think they ought to have been a cause for concern and prompted

NatWest to intervene.

Taking all these factors into account, whilst I think Mr A was most likely targeted by fraudsters in some way, I think it's more likely than not that he authorised the transactions himself or otherwise allowed them to be made. And with that in mind, while I note Mr A's comment that he thinks the payments should've been flagged as suspicious, I don't think they were so out of character for the account that should've prompted the bank to do anything differently. It follows that I won't be asking NatWest to refund M's loss.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask M to accept or reject my decision before 13 June 2025.

Lorna Wall
Ombudsman