

The complaint

Mr I and Mrs K complain that NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY (NatWest) has not refunded the money they lost to what they believe was a scam.

What happened

In January 2024 Mr I and Mrs K paid £1,000 to a contractor – which I'll call T – as a deposit for building work. Over the next few weeks T gave various reasons as to why work could not begin, including delays with the scaffolders and poor weather. Mr I asked for the deposit to be returned, but while T did promise to pay the funds back to Mr I and Mrs K no refund was received.

Mr I and Mrs K therefore contacted NatWest to say they believed they had been the victim of a scam and to ask for their loss to be refunded. NatWest looked into what had happened but did not consider it was liable for their loss, it said that T was a legitimate company and that it considered this to be a civil dispute between Mr I, Mrs K and T, not a scam.

Unhappy with NatWest's response, Mr I and Mrs K brought the complaint to this service and one of our investigators looked into things. But having thought carefully about the evidence available, they thought that this was most likely a civil dispute, meaning that Mr I and Mrs K would not be entitled to a refund of their loss.

Mr I and Mrs K remained unhappy, they maintain that T's failure to start the work or to provide a refund is evidence of a scam, and point to issues with T's registered address as further evidence that T was acting dishonestly. As no agreement could be reached, this case has been passed to me for 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 and having thought very carefully about all the evidence provided by both parties, I agree with the findings set out by our investigator. I do appreciate how disappointing this will be for Mr I and Mrs K but, whilst I'm sorry to hear of what's happened, and appreciate the impact this has had on them, I don't think I can fairly hold NatWest liable for their loss.

This is because not all cases where individuals have lost sums of money are in fact fraudulent and/or a scam. So, whilst I understand that Mr I and Mrs K feel they have been the victims of fraud, there is a high legal threshold or burden of proof for fraud and there are a number of potential reasons (other than fraud or a scam) for a dispute to exist between two parties.

When considering what is fair and reasonable in this case, I've thought about the Contingent Reimbursement Model Code (the CRM Code) which NatWest has signed up to and which

was in force at the time the relevant payment was made. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam. So, I've thought about whether the CRM code applies in the circumstances of this complaint, and whether NatWest therefore ought to reimburse Mr I and Mrs K under the provisions of the CRM Code.

The CRM Code only applies in very specific circumstances – where the customer has been the victim of an APP (authorised push payment) scam. Under the CRM Code, an APP scam is defined as:

“...a transfer of funds...where (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or (ii) The customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.”

The CRM Code is also quite explicit that it doesn't apply to all push payments. It says:

“DS2(2) This code does not apply to:

(b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier.”

Fraudulent isn't defined in the CRM Code, but as the CRM Code specifically excludes civil disputes, I think I need to consider, as a first step, whether this was a scam (where a scammer takes money from a customer for no legitimate purpose) or a civil dispute (where a payment is made to a legitimate trading company or business, but there is some dispute about the goods or services that should have been supplied).

If this was a scam, or fraud – then banks (including NatWest) must follow industry and regulatory guidance, including the CRM Code, to check certain payments and in some circumstances, protect customers by stopping the payments and contacting customers about them. And where banks haven't followed the guidance, they can be asked to refund them. But where payments are made to a legitimate business for a legitimate reason, then such principles don't apply. This is then classed as a civil dispute, and for which banks normally have no liability.

Having thought very carefully about all that Mr I and Mrs K have said, and about the evidence provided by all parties to this complaint, I'm not persuaded that I can safely say with any certainty, based on what I know and what the evidence shows, that T set out with an intent to defraud Mr I and Mrs K.

I say this for the following reasons:

- T appears to have been a legitimate business, which was registered on Companies House.
- Statements for the account that Mr I and Mrs K made the payment to do suggest the recipient was carrying out transactions that were related to T's stated business.
- I've seen no evidence of online reviews stating that other people had been scammed by T or had any other concerns about its business.
- T responded to Trading Standards when questioned, stating that it had bought materials for Mr I and Mrs K's job which it could not return.
- While I acknowledge that there are issues with T's business address, I don't think this

proves that it was operating fraudulently.

- It appears that T has since entered liquidation.

With all of this in mind, I consider that T was most likely attempting to operate as a legitimate business at the time Mr I and Mrs K engaged its services. I acknowledge that T ultimately did not provide the services Mr I and Mrs K paid for, nor did it refund their deposit, but there are many reasons, other than fraud, why a legitimate business may be unable to provide the services it has promised. A business may act unprofessionally but still be carrying out legitimate business, or it may begin to experience financial difficulties which mean it cannot meet its commitments. And this service isn't in a position to forensically analyse T's actions here; we must consider the evidence that is before us. And, in doing so, I've not seen persuasive evidence that T set out to defraud Mr I and Mrs K.

I know this will be a huge disappointment to Mr I and Mrs K. I appreciate how strongly they feel about this case. But for the reasons I've explained above, I do not consider that the payment in dispute here is covered under the CRM Code, or that it would be fair to hold NatWest responsible for the money lost.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I and Mrs K to accept or reject my decision before 8 May 2025.

Sophie Mitchell
Ombudsman