

The complaint

Mrs P has complained that National Westminster Bank Plc (“NatWest”) failed to protect her from falling victim to a cryptocurrency-related investment scam.

What happened

The background of this complaint is already known to both parties, so I won’t repeat all of it here. But I’ll summarise the key points and then focus on explaining the reason for my decision.

Mrs P has used a professional representative to refer her complaint to this service. For the purposes of my decision, I’ll refer directly to Mrs P, but I’d like to reassure Mrs P and her representative that I’ve considered everything both parties have said.

Mrs P explains that after making an enquiry about cryptocurrency online she received a call from an individual (“the scammer”) from an alleged cryptocurrency investment company who gave her some more details about how she could start investing. Mrs P says she was told she could initially start with a small deposit, and she was shown some examples of potential returns, such as receiving £10,000 after initially investing £5,000. She says the scammer was very professional and knowledgeable, so she was persuaded he was trying to help her.

Between January and June 2021 Mrs P proceeded to make 27 payments as transfers and debit card transactions with a total value of over £16,000 to her accounts held with various cryptocurrency exchanges and her account at another bank. She then forwarded the funds on to the scammer under the impression that she was funding her investment. I haven’t included a list of the payments here but all parties have been provided with this by our investigator.

Mrs P says she realised she’d been scammed when she didn’t have any money left to send and hadn’t received any returns on her investment. She’s explained that another company told her it could help her to recover her losses, but this also turned out to be a scam and she lost a further £16,000.

Mrs P made a complaint to NatWest. In her complaint she said NatWest didn’t contact her to question the payments or ask whether she was confident with investing, nor to give her any information about scams. NatWest didn’t uphold the complaint as it said Mrs P had made the payments to other accounts in her own name, before sending the funds on to the scammer. So it didn’t agree it was responsible for Mrs P’s loss.

Mrs P remained unhappy so she referred the complaint to this service.

Our investigator considered everything and didn’t think the complaint should be upheld. He explained that he didn’t think the payments Mrs P made were out-of-character, so he didn’t think that NatWest ought to have been concerned and intervened before they were processed.

As Mrs P didn't accept the investigator's opinion, the case has been passed to me to make 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.

I'm sorry to disappoint Mrs P but having considered everything I'm afraid I'm not upholding her complaint, broadly for the same reasons as our investigator, which I've set out below.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's not in question whether Mrs P authorised these payments from leaving her account. It's accepted by all parties that Mrs P gave the instructions to NatWest and NatWest made the payments in line with those instructions, and in line with the terms and conditions of Mrs P's account.

But that doesn't always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won't result in harm.

Having reviewed the transactions in question, in the context of Mrs P's overall account activity both before and during the scam, I agree that the values of two of the 27 scam-related transactions were higher than the other transactions on Mrs P's account. But I've also kept in mind the wider context of the payments Mrs P made, such as the pattern and the types of transaction.

The scam started with Mrs P making two relatively modest-sized transactions as online payments. NatWest says Mrs P would've been given an on-screen warning specific to the reason of the payment when she first created the payee, which she'd have needed to acknowledge to proceed, and I think this is proportionate. Whilst I haven't seen evidence that Mrs P definitely saw this warning, it doesn't change my thinking here, because even if NatWest didn't show a warning, I'm persuaded the payments weren't out of the ordinary enough to warrant an intervention, especially as they were made two weeks apart.

After a gap of around six weeks Mrs P then made five debit card transactions to cryptocurrency platforms. Although some of these transactions were larger, at £1,000 and £3,000, I don't think NatWest ought to have stopped them or delayed them from being made. I can see that Mrs P had made some larger transactions of over £1,000 in the months prior to these ones, so I don't think they stood out as particularly suspicious. It's also important to remember that although the list of scam transactions looks somewhat stark in isolation, but when these transactions are considered amongst the other day-to-day spending taking place on Mrs P's account, over the course of around seven weeks, they again appear less significant.

My thoughts apply to the remaining debit card payments that form part of this scam. Again, when listed in isolation the picture can be quite shocking; but apart from one payment of £2,000, the transactions were all for less than £1,000 and spaced out with days, if not weeks, between them. They were also made to several different merchants, which although they were all cryptocurrency platforms, would likely have given NatWest less cause for concern.

I do appreciate that two of the scam-related transactions were higher than previous account activity, but I'm satisfied that NatWest didn't need to intervene based on that alone. Customers occasionally use their debit cards for larger purchases and bearing in mind the number of transactions NatWest processes every day, it wouldn't be practical to expect it to intervene in all higher-than-usual transactions, without any other reason for doing so.

Finally, I've considered the remaining three bank transfers which Mrs P made to her own account at a different bank. I can see that this payee had been active on Mrs P's account for some time, and she'd sent several payments to it throughout 2020, before the ones related with the scam. This, plus the fact that the payments were spaced out between the card payments, and there was almost three months between the first and the third payments, means I don't think NatWest ought to have been alerted that they may've been part of a scam.

NatWest is required to carry out its customers' instructions promptly, including debit card payments, unless it has a reasonable cause not to do so. And it's also required to have systems in place to monitor and identify when its customers might be at risk of financial harm. Having considered everything in this case, I don't think NatWest has failed in its duty because I'm not persuaded that it ought to have had cause for concern about the activity taking place on Mrs P's account. So I don't think NatWest should've intervened before following Mrs P's instructions, and I therefore don't hold it responsible for what happened.

In considering the allegations made against NatWest it was also fair for me to consider whether Mrs P has any responsibility for the loss she experienced.

I appreciate that neither Mrs P or any of her family are experienced investors, so I can understand that Mrs P feels she was particularly susceptible to falling foul of a scam like this. But Mrs P hasn't given information on any checks she did before choosing to invest with the company, other than that she found it online and she was contacted after completing a request. I'm also not aware that she received any documentation or literature related to what she believed she was investing in. This, alongside the fact that Mrs P was given a somewhat unrealistic expectation that she could double her investment, isn't a credible scenario, and it wouldn't be fair for NatWest to take the blame for that.

Recovery of the funds

NatWest wasn't made aware of the scam until Mrs P raised her complaint in August 2023. This was over two and a half years after it took place, so I wouldn't have expected NatWest to attempt to recover the funds from the recipients, as it was unlikely that would succeed.

The chargeback process is relevant here for the payments made by debit card. However one of the requirements for a chargeback is that it's raised within 120 days of the transaction in dispute. As the scam was reported much later than that, a chargeback wouldn't have been accepted into the scheme, so that wasn't a feasible route for NatWest to take.

Although I don't think NatWest is responsible for what Mrs P has unfortunately lost, I don't mean to detract from the huge impact this has undoubtedly had on her. I do understand that my decision will be disappointing, but for the reasons I've set out above, I don't uphold this complaint.

My final decision

I don't uphold Mrs P's complaint against National Westminster Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or

reject my decision before 3 December 2024.

Sam Wade
Ombudsman