

The complaint

Mr R is unhappy that National Westminster Bank Plc has decided not to refund him, after he says he was the victim of a scam.

What happened

Mr R made 301 payments to W between 2015 and 2023, to three different accounts held by W.

Mr R confirmed he also sent money to W, from a different bank account he held abroad, and these don't form part of this complaint.

Which payments are part of this complaint

The investigator explained the time barred element to Mr R and he agreed that the scope of the complaint would be limited to transactions which occurred after 01 June 2017. So this complaint is about the payments Mr R made to W between 01 June 2017 and 01 June 2023 totalling a loss of £136,871.01

Background

Mr R has provided details about his interactions with W over the course of 40 years. From their first meeting in the 1980s, up to the scam claim he raised in June 2023. I won't repeat those details here, just the salient facts.

Mr R says he doesn't describe W as a friend, but more of an acquaintance. But certainly, a long-established relationship of some description existed, which included them meeting in person both in the UK and abroad over those years.

Mr R had loaned money to W prior to the scam payments, from around 1998 to around 2006. Although the exact nature and value of those payments is not entirely clear, it is apparent that Mr R wasn't repaid those funds; despite saying he asked for repayment. And Mr R said at least a couple of cheques from W bounced.

It's not clear when Mr R began loaning W money again. His records and the bank statements provided only date as far back as 2015. But he believes payments and communications between him and W went back to 2009. Although no evidence has been provided from Mr R, the police or the bank to corroborate this.

In 2023, Mr R says he discussed the matter with his children who thought he was being scammed. Mr R says the police are looking into things. But he hasn't provided any update on this since first discussing his complaint with our service.

Mr R raised a scam claim with NatWest in June 2023.

NatWest looked into Mr R's scam claim. It said it considered the matter a civil dispute rather than a scam and was therefore not within the scope for reimbursement under the Contingent

Reimbursement Model (CRM) code. It added that the receiving banks were continuing to investigate the matter but also confirmed that no funds remained in those accounts. Unhappy with this outcome Mr R brought his complaint to our service. One of our investigators looked into things.

He said he wouldn't be recommending that NatWest refund Mr R. In summary his key findings were as follows:

- He didn't think the payments were particularly unusual or suspicious. This is because he'd sent similar size payments to the same payee for a number of years, and they didn't reduce Mr R's account balance in a way that would appear concerning.
- Mr R's said that because he had a Premier account and paid a monthly fee, NatWest ought to have reviewed his account more regularly. That failure resulted in NatWest not picking up these concerning payments to W. But the investigator said there were no interactions between Mr R and NatWest regarding these payments. And the investigator didn't think NatWest needed to intervene with any of these payments.
- The payments Mr R made after the introduction of the CRM code also didn't need to be refunded. NatWest said these payments aren't as a result of an authorised push payment (APP) fraud. Because Mr R paid a legitimate person, but they didn't honor the agreement to pay him back.
- The investigator agreed that there wasn't enough evidence to conclude that this individual set out to defraud him. And it was difficult to establish what the intended purpose was for each and all of the payments.

Mr R didn't accept the investigator's findings and provided a detailed reply. I've included his responses where relevant to the key findings made by the investigator and to the conclusion of the complaint. In summary he said:

- W was an acquaintance rather than a friend.
- The payments were irregular and the amounts were never the same and this should have raised a flag as the payments were suspicious.
- NatWest's website says it will contact customers if it's concerned about a payment being made but he wasn't contacted and ought to have been.
- Mr R was able to provide more detail about the specific reasons for some of the payments. Mr R says it was clear that the payments were going to resolve W's husband's debts so money could be released by the court.
- Mr R said just one phone call to his family revealed the scam. So he believes that if NatWest had contacted him the scam would have been exposed. He adds that NatWest's argument that the payments wouldn't have been prevented has not been substantiated.
- The police are treating it as a scam/fraud.
- Mr R says the total value of the payments made in one year were above the tax threshold. He says an account manager ought to have picked this up at NatWest.
- NatWest has written to him seeking information about his residence, for tax purposes. But, failed to contact him about making irregular payments to the same bank account for years. He believes this strengthens his case that NatWest have been negligent with regards to the payments he made to W.

The investigator responded to say he'd carefully considered all of Mr R's points. In summary he concluded:

- He apologised for his description of the nature of the relationship between Mr R and W.
- Whilst Mr R considered the payments to W as irregular, he didn't agree. Mr R had been paying W for a number of years by 2017. So the payments were spread out and W appeared to be a regular payee.
- He didn't agree that NatWest had a duty to intervene when the payments to W reached the tax threshold. i.e. this could have been considered a gift.
- He didn't agree that a specific account manager ought to be reviewing Mr R's accounts on a regular basis – rather that the consideration in this scam claim is whether NatWest ought to have identified whether Mr R's account activity meant he could have been at risk of financial harm.
- The investigator believed there remained a lack of clarity about what the funds were being used for and what money W's husband was due to receive.
- He detailed the remit of the CRM code and explained that in order for these payments to be covered by the code it would need to be established that W set out to defraud or scam Mr R from the outset.
- And he added that the contact from NatWest regarding Mr R's residential status for tax purposes did not mean that NatWest failed to review his account in line with its obligations to protect consumers from risk of fraud and scams.

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.

In doing so I have come to the same conclusions as the investigator for largely the same reasons. I know this will come as a disappointment to Mr R and his family. I'll set out my explanation for this outcome below.

In deciding what's fair and reasonable, I am required to take into account relevant law and regulations, regulators' rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.

In broad terms, the starting position at law is that a bank such as NatWest is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2009 and 2017 regulations) and the terms and conditions of the customer's account.

I consider it fair and reasonable that NatWest should:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;
- have had 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). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;
- in some circumstances, irrespective of the payment channel used, it should have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – (as in practice NatWest sometimes does including in relation to card payments);

- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multistage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

Should NatWest have recognised that Mr R was at risk of financial harm from fraud?

Transactions made before 28 May 2019

NatWest isn't liable to refund Mr R simply because he's lost out or has been the victim of a scam. I would only be recommending that NatWest need refund Mr R, if it was reasonable for NatWest to have;

- considered or ought to have considered these payments as suspicious; and
- in considering them suspicious that it ought to have taken steps to either intervene with the payments or speak to Mr R about them; and
- that this discussion would have either uncovered a scam or stopped Mr R from sending money to W.

I'll deal with these issues in turn.

I agree with the investigator that the transactions, in consideration here, did not represent an APP scam risk that meant NatWest was required to intervene when Mr R made them.

Prior to June 2017, Mr R had, at least, been making payments to W for two years, according to the statements that NatWest has provided. But Mr R confirms he had in fact been making payments to W for much longer – possibly as long as 25 years, on and off.

He'd never raised a concern with NatWest or his other banks, as far as we're aware, during this time. He wasn't in any financial difficulty or appeared to be funding these payments beyond his means. Although he used his overdraft on some of his accounts, he also credited his account, so it was in and out of credit on a regular basis. And W had become a regular payee over the course of this time.

The payments aren't exactly the same amount each time, but they are each of low value. No single payment is higher than £3,100 and the majority are much lower, with the average payment being just over £500.

And so, this long-term series of payments to W does not fit a pattern of fraud or indicate that Mr R is the victim of a scam. Or at least not one that the bank is likely to have been on the lookout for, or able to reasonably discover.

Banks can't be expected to stop every scam that occurs. It has a duty to process payments in accordance with its customers instructions, the account terms and conditions and its obligations under the PSRs. It should only intervene with payments where they represent an APP scam risk. In doing so, it should take into account all the facts it has about its customer and the payments, and what it knows about scams.

And here, I don't think NatWest made an error here by not intervening when Mr R made these payments.

But even if NatWest had discussed the payments with Mr R (which I've concluded it didn't need to) I'm not persuaded the scam would have been revealed. I say this because Mr R would have likely explained that he'd known W for approximately thirty plus years, that he had met her and her husband a number of times in social settings both abroad and in the UK and he was helping her with some financial issues. It's not clear if Mr R would have explained exactly what the payments were for. Although there is one overall purpose for the payments there were also individual reasons for each payment underlying this. But in any event, the sort of advice, warnings or checks NatWest could have reasonably advised Mr R to make in this situation would have been to check he knew the person he was paying, understand the reason for the payment and ask for evidence to support this. All of which he did, and so I don't think that a conversation with the bank or warnings about typical scams would have exposed the underlying nature of the arrangement between Mr R and W.

Although Mr R says, after speaking to his children about the payments, they realised it was a scam it seems unlikely Mr R wouldn't have mentioned the payments to anyone else during this time. Especially given how long he'd been making the payments, the value of them that had accumulated over the years, and the lack of repayment he'd received from W, despite the multiple promises from her. And during this almost thirty-year period of sending W money no-one, including Mr R, raised a concern about the payments. So, I'm not convinced that NatWest would have likely been able to expose what was occurring here or provide Mr R with any warnings that he would have been able to apply to his situation and prevent him from continuing to make payments to W.

Transactions made after 28 May 2019

NatWest is a signatory of the Lending Standard Board's Contingent Reimbursement Model Code (the LSB's CRM Code). And has therefore agreed to adhere to its principles. The CRM Code requires firms to reimburse victims of APP Scams in all but a limited set of circumstances.

Like the investigator, I'm satisfied that NatWest didn't need to consider these payments as unusual or suspicious and didn't need to intervene with them at the time Mr R made them. I say this because, much like the payments that took place prior to the introduction of the CRM code, the payment did not reasonably represent a scam risk. And not one that required NatWest to have provided a warning to Mr R at the time he made them.

And, by 2019, I don't think Mr R ought to have reasonably believed he was going to have his funds returned to him. I haven't read all of the messages between Mr R and W between 2019 and 2023 as there are over 7900 of them. But I have seen that in June 2019 Mr R asks W if this is a scam. And on multiple occasions Mr R asks for repayment of some funds which aren't forthcoming and then he continues to send more money. It's not clear why Mr R continued to send money when he considered he was already owed vast sums of money, without any significant repayment spanning back a number of years.

The investigator also concluded that for this claim to be considered under the CRM code it had to be established that Mr R had been the victim of an APP scam. Here that would mean that Mr R transferred funds to W for what he believed were legitimate purposes, but which were in fact fraudulent. Although Mr R says the police are treating this as a scam, he's not provided any evidence of this. It's not clear what W used the money for and although Mr R says W asked others for money, he hasn't provided any evidence to support this or the circumstances in which that money may have been borrowed. So, I don't disagree with NatWest and the investigator's finding that an APP scam hasn't been established here. But that's not to say that Mr R hasn't been the victim of some deceit or even fraud but not every fraud will be covered by the CRM code. And importantly I've also set out that even if this were an APP scam NatWest doesn't need to refund Mr R either under the CRM code or

under its general obligations to detect potential scam payments. So, in any event I'm not recommending that NatWest refund Mr R.

My final decision

I not upholding Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 12 September 2025.

Sophia Smith
Ombudsman