

The complaint

Mr H complains that National Westminster Bank Public Limited Company (NatWest) won't refund money he lost when he was the victim of an investment scam, and subsequently a recovery scam.

Mr H is represented by a firm that I'll refer to as 'C'.

What happened

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

In or around January 2021 Mr H saw an investment advert online, which he had seen on multiple occasions, with a firm that we now know to be a scam - that I'll refer to as 'X'. As Mr H had been interested in investing for several months and considered crypto as the new up and coming investment, he followed the advert link and registered his details.

X contacted Mr H and explained how everything worked, with a minimum £300 deposit required to start and an account manager assigned to him. Before going ahead, Mr H has said he researched X online and couldn't find any warnings or negative reviews. Instead, he says it was rated 3.5 stars on a reputable review website. Because of this, he was happy to proceed.

An account manager then contacted Mr H, whom he found both professional and knowledgeable about investments – telling Mr H he had 20 years of experience and various other clients. Mr H was told by the account manager that he would take a 7% commission for his services. The scammer provided Mr H with a link to his 'trading account' with X, and assisted Mr H with the investment by use of remote access software.

Mr H saw early success with the initial deposit and because of this, he decided to invest more. And during the course of the scam, he was presented further opportunities, which included attaining higher 'investment levels' that would provide greater returns by depositing more funds. Mr H made the following payments to his trading account with X via legitimate crypto exchanges:

| Date | Type | Amount |
|-----------------|---------------|---------|
| 2 January 2021 | Debit card | £300 |
| 5 January 2021 | Fund transfer | £2 |
| 8 January 2021 | Fund transfer | £20,000 |
| 14 January 2021 | Fund transfer | £9,950 |
| 15 January 2021 | Fund transfer | £10,005 |

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|------------------|----------------|-----------------|
| 17 January 2021 | Fund transfer | £3,000 |
| 18 January 2021 | Fund transfer | £3,000 |
| 19 January 2021 | Fund transfer | £4,000 |
| 27 January 2021 | Fund transfer | £10,000 |
| 29 January 2021 | Fund transfer | £10,000 |
| 3 February 2021 | CHAPS transfer | £9,903 |
| 9 February 2021 | CHAPS transfer | £10,023 |
| 10 February 2021 | Fund transfer | £20,000 |
| 11 February 2021 | Fund transfer | £20,000 |
| 19 February 2021 | Fund transfer | £10,000 |
| 22 February 2021 | Fund transfer | £20,000 |
| 15 March 2021 | Fund transfer | £20,000 |
| 18 March 2021 | Fund transfer | £20,000 |
| 21 March 2021 | Fund transfer | £20,000 |
| 24 March 2021 | Fund transfer | £20,000 |
| 21 June 2021 | Fund transfer | £2,000 |
| 25 June 2021 | Fund transfer | £2,969 |
| 25 June 2021 | Fund transfer | £5,000 |
| 28 June 2021 | Fund transfer | £5,000 |
| 28 June 2021 | Fund transfer | £5,000 |
| 29 October 2021 | Fund transfer | £2,000 |
| 29 October 2021 | Fund transfer | £3,000 |
| | Total | £265,152 |

Mr H has explained he realised he'd been scammed in around October 2021 as, despite having made withdrawal requests, X kept on using delay tactics. He also refused to invest more despite being pressurised by X to do so.

In October 2022 Mr H was contacted by another firm – that I'll refer to as 'B' - who claimed to be a recovery service that assisted people who'd lost money to crypto investment firms. In the hope his funds could be recovered, Mr H sent the following payments to B via a legitimate crypto exchange:

| Date | Type | Amount |
|-----------------|---------------|---------------|
| 18 October 2022 | Fund transfer | £3,650 |
| 26 October 2022 | Fund transfer | £1,000 |
| | Total | £4,650 |

After sending these funds, B ceased contact with Mr H. He then realised he'd been the victim of another scam.

Mr H has received the following credits from the crypto exchanges:

| Date | Amount |
|------------------|-------------------|
| 14 January 2021 | £23,163.88 |
| 1 February 2021 | £8,789.56 |
| 12 February 2021 | £9,593.71 |
| 30 October 2023 | £163.72 |
| Total | £41,710.87 |

This puts Mr H's total loss to both scams as £228,091.13.

C complained to NatWest, on behalf of Mr H, on 21 December 2023 saying the payments were made as part of a scam. They considered NatWest had failed in their duty of care to protect Mr H from the scam as, while they did stop some of the payments and refer him to branch, he wasn't sufficiently questioned about the payments. Nor were effective warnings provided. Instead, NatWest simply accepted Mr H's reasoning as to why he was making the payments and released them without any concern being expressed. And while Mr H was warned vaguely of scams by NatWest, he didn't think the warning applied to him as it was so ineffective and generic.

C said if NatWest had appropriately probed Mr H about the payments, then the scam would've been uncovered, and Mr H wouldn't have suffered the loss he did. Because of this, C wanted NatWest to reimburse Mr H his loss from the scam – along with 8% simple interest and £300 compensation.

NatWest didn't uphold the complaint. In short, they said they're required to make payments in accordance with their customer's instructions. And they can only deviate from this where they have reasonable grounds to suspect a payment would result in a customer being a victim of fraud. And as a bank, they place appropriate and relevant warning messages on their online banking facility about the types of scams they're seeing. Furthermore, while their fraud prevention system is set up to monitor activity for the latest fraud trends, if a transaction doesn't trigger additional checks that are subsequently reported this is not a bank error. Here, these particular payments were made by Mr H and were in fact genuine.

The complaint was referred to the Financial Ombudsman. Our Investigator initially upheld it

in part. NatWest then provided further submissions which included recordings of conversations they had with Mr H in January 2021, and which prompted him to visit one of their branches on 27 January 2021.

Our Investigator considered this additional information and changed his opinion - saying he didn't think NatWest was responsible for Mr H's loss. This was because NatWest had spoken with Mr H and provided him with scam warnings, which included advising Mr H not to make any further payments as it sounded like a scam. And that NatWest even referred Mr H to one of their branches where they provided further scam warnings. But despite this, Mr H went ahead and made the payments anyway. Our Investigator also explained that while he considered NatWest should've questioned subsequent transactions, he didn't think this would've made a difference. This was because the earlier interventions hadn't been successful and as there wasn't any negative reviews or warnings about X available at the time. Furthermore, our Investigator didn't think NatWest could've done anything more to recover the funds Mr H lost when they were notified of the scam.

C disagreed and, in short, they added:

- From the calls, Mr H answered NatWest's questions honestly and he was provided general and tailored scam warnings.
- Although Mr H was invited to attend a branch and show evidence the crypto account was in his own name, it appears after this interaction the bank unblocked his account and didn't intervene further. This is unacceptable considering the amount of the loss Mr H suffered.
- The bank allowed hundreds of thousands of pounds to be processed, and this assured Mr H the company was genuine as the bank are the experts in this area.
- If the bank didn't know this was a scam but allowed the payments to go through, they should accept responsibility for their failings and refund Mr H.
- If the bank wasn't sure of the firm, they ought to have to have invoked banking protocol – putting the payment(s) on hold until a thorough investigation was completed.
- Mr H hasn't lied, acted irresponsibly or maliciously and shouldn't be penalised for the bank's mistakes.

Our Investigator considered what C said but it didn't change his view. He reiterated even if NatWest had intervened further, he didn't think it would've prevented Mr H making the payments. He also wouldn't have expected NatWest to have invoked banking protocol in these circumstances.

The matter has 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.

I'm very sorry Mr H has been the victim of a scam and I'm sympathetic to the impact this matter has had on him - as I appreciate this is a significant sum he has lost. But I must consider whether NatWest is responsible for the loss he's suffered. Having done so, and while I realise this isn't the outcome Mr H is hoping for, for similar reasons as our

Investigator, I don't think they are. Because of this, I don't think NatWest acted unfairly by not refunding the payments. I'll explain why.

Before I do, I want to reassure Mr H that I've considered everything C has submitted on his behalf. And so, while I've summarised this complaint in far less detail than what has been provided, I want to stress that no discourtesy is intended by this. If there is a submission I've not addressed; it isn't because I have ignored the point. It's simply because my findings focus on what I consider to be the central issue in this complaint – that being whether NatWest is responsible for the loss Mr H suffered to the scams.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. Here, it isn't disputed that Mr H knowingly made the payments from his NatWest account and so, I'm satisfied he authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of his account, NatWest are expected to process Mr H's payments, and he is presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for NatWest to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

So, the starting point here is whether the instructions given by Mr H to NatWest (either individually or collectively) were unusual enough to have expected additional checks being carried out before the payments were processed.

Here, I wouldn't reasonably have expected NatWest to have carried out any additional checks before processing the first two payments given their low value.

NatWest did however speak with Mr H on 8 January 2021 in respect of the £20,000 payment, on 14 and 15 January in respect of the £9,950 and £10,005 payments respectively. And, on 20 January 2021 in respect of a £10,000 payment Mr H had attempted, and which led to him visiting one of NatWest's branches on 27 January 2021 (when the payment was processed). I've therefore considered whether NatWest did enough in respect of these interactions with Mr H to protect him – and specifically, if the additional checks were sufficient and proportionate to the risks associated with the payments.

I've listened to calls between Mr H and NatWest. And in the first call, upon questioning, Mr H confirms that he's investing in crypto himself and "*off his own back*" without any assistance such as coaching or mentoring. He also confirms that he hasn't responded to an advert and that he had done a lot of research before deciding to use the crypto exchange for that payment.

It's unclear why Mr H didn't answer the questions NatWest put to him accurately or truthfully – as I haven't seen anything to show Mr H was being coached by the scammers, nor has C said he was. But if he was coached, I can't reasonably hold NatWest responsible for that and I'm not persuaded, having carefully listened to the call, that there was enough reason for NatWest to suspect Mr H was misleading them. So, given there wasn't any indication of a third party being involved (a broker) due to Mr H confirming he was investing independently, I think NatWest would've been reassured that he wasn't at risk of financial harm from fraud at that time.

In the next two calls of 14 and 15 January 2021, NatWest didn't specifically ask Mr H whether there was a broker involved. But they did ask if there was a third party telling him to move his funds. And while this question might have been primarily in relation to safe account

scams, it did give Mr H the opportunity to explain X's involvement. Unfortunately, he didn't do so. And he was specifically informed that if he was being told to lie, then it is a scam – which should've put him on notice he was being scammed if he'd been coached to lie on 8 January 2021 call.

Furthermore, NatWest queried whether Mr H had remote access software on his computer as it was showing up on their system. Mr H at first said he didn't, but then when probed further he explained that he did for work purposes. While this may have been used for work purposes, C has confirmed X used remote access software to assist Mr H to trade on their platform. And so, it would've been reasonable for Mr H to have explained this to NatWest at the time. By not doing so, it prevented NatWest from being able to accurately establish the risk of fraud with the payments Mr H was making.

I therefore don't think that NatWest would've had sufficient reason to suspect Mr H was at risk of financial harm from fraud at that time. Mr H then made several lower value transactions between 17 and 19 January 2021. Given their low value, I wouldn't have expected NatWest to have carried out additional checks on these payments. But they did speak with Mr H further on 20 January 2021.

There were two calls on this day. In the first, NatWest emphasised that they're seeing a lot of crypto scams – including with the crypto exchange Mr H's payment was being made to. And although Mr H explained the crypto exchange was legitimate and he'd made a profit that he'd withdrawn (£23,163.88), NatWest warned about firms that advertise online and through social media that receive crypto and then later disappear by closing down their website/account platform. NatWest told Mr H they had concerns and directed him to do further research before proceeding. So, they kept the payment on hold while he did this.

Mr H then called back later that day and, upon questioning, he confirmed he was speaking to 'someone' that he'd got in touch with online, but that they had 'zero' access to his account. Nor was he paying them for their services, including commission. But Mr H explained that they were tutoring him, and they likely wanted him to invest in their company.

NatWest then questioned whether the 'broker' wanted Mr H to transfer crypto to them, which Mr H confirmed they did although he hadn't transferred any money yet. At this point, NatWest told Mr H that it sounded very high risk and it was likely to be a scam. NatWest then gave a very clear warning and strongly advised Mr H against going anywhere near any brokerage service – as any crypto forwarded to them could just disappear with it then almost impossible to get back. Because of their concerns, NatWest directed Mr H to one of their branches and explained he would need to show he is the owner of the crypto account and hadn't transferred money over to the brokers.

Given what Mr H had told NatWest, I think this was reasonable in the circumstances. Mr H visited the branch a week later, on 27 January 2021. Unfortunately, there is limited information available, but NatWest's records show they made Mr H aware of the high-risk nature of this type of investment, along with further scam advice being provided.

Although I can't be sure what was specifically discussed, it seems more likely than not to me, given concerns around the broker had been identified, that NatWest would've continued to explore this as part of the in-branch discussions/checks. And I see no reason to think that NatWest wouldn't have given Mr H advice – as they did before – to not forward any funds to a broker as it would likely be a scam. It therefore seems most likely that Mr H would've sufficiently reassured NatWest that he wasn't intending to do this. Or, alternatively, he was satisfied with the legitimacy of X despite NatWest's warnings.

I've also considered whether it would've been reasonable for NatWest to have invoked

banking protocol here. Having done so, I don't think it was. This is because, here, I think NatWest would've been sufficiently reassured by the answers Mr H gave to their questions about the purpose of the payment(s) and its surrounding circumstances.

It follows that I think NatWest took reasonable and proportionate steps to protect Mr H from the scam up to this point.

I have however thought about whether NatWest ought to have carried out additional checks before processing any of the subsequent payments. Given the significant values of some of them, there's an argument this should've happened. But even if NatWest had done this, I don't think I can, on balance, reasonably conclude it would've made a difference.

I'm satisfied NatWest had already made it very clear to Mr H that sending funds to a broker is very high risk and likely to be a scam. And they warned him against doing so, highlighting the risk that the crypto could just disappear. But even if NatWest had further concerns, they wouldn't have known with absolute certainty that X was a scam firm – as the first warning published about X, by a foreign regulator, was in September 2021 which was after the high value payments that would've warranted additional checks. Nevertheless, NatWest ought to have shared their suspicions, highlighting the similarities between his circumstances and the common features of crypto investment scams and warned Mr H accordingly. It would've also been reasonable for them to have advised Mr H to carry out further checks before proceeding.

Given I'm satisfied NatWest had already taken these steps; I can't see why it would've resonated with Mr H any differently. I'm also mindful that Mr H had received returns of about £40,000 in the early stages of the scam. And he's confirmed that as part of his checks he hadn't found any negative reviews of X that gave him cause for concern. Instead, he could see that others had reported success. And so, because of all this, I think it would've reassured Mr H of X's legitimacy. It follows I'm not persuaded that, upon further questioning or advice/warnings being provided by NatWest, Mr H wouldn't have gone ahead with the payments.

On a final note, I've also considered whether NatWest should've carried out any additional checks in relation to the recovery scam payments – which happened about one year after the last investment scam payments. But by this point, I think payments to crypto providers was normalised account activity for Mr H. And given their relatively low values, as well as NatWest not being aware Mr H had been the victim of a prior crypto scam, I wouldn't reasonably have expected NatWest to have had sufficient reason to suspect he was at risk of financial harm from fraud. So, I wouldn't have expected NatWest to have carried out additional checks on these payments.

It follows that I think NatWest took reasonable steps, at times, to protect Mr H from the scam. But even if they'd gone further than they did by carrying out additional checks on later payments, I don't think this would've made a difference.

I've thought about whether NatWest could've done anything to recover Mr H's loss when the scam was reported. But given Mr H had forwarded the crypto to X's trading platform, there wouldn't have been any funds to recover. And in respect of the debit card payment, the only option of recovery was via chargeback. But given the payment was made to legitimate crypto providers, I don't consider it would have had any prospect of success given there's no dispute the crypto was provided to Mr H. And so, I don't think NatWest could've recovered Mr H's loss.

I have a great deal of sympathy for Mr H and the loss he's suffered. I want to reassure Mr H that I haven't taken this decision lightly. But it would only be fair for me to direct

NatWest to refund his loss if I thought they were responsible – and I'm not persuaded that this was the case. For the above reasons, I think NatWest has acted fairly and so I'm not going to tell them to do anything further.

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 Mr H to accept or reject my decision before 8 May 2025.

Daniel O'Dell
Ombudsman