

The complaint

Ms K complains that National Westminster Bank Plc has declined to refund payments made in relation to a scam.

What happened

As the facts are well known to both parties and not in dispute, I'll summarise them briefly.

Ms K met a scammer online who was impersonating a well-known sports person, they persuaded her to make multiple transactions in 2022 and 2023. At the time Ms K believed they were in a romantic relationship and that he was acting in her interests including undertaking investment activity on her behalf. She's disputing several different types of payments from her current account and credit card with NatWest, including but not limited to; transfers between accounts, payments to credit cards, point-of sale transactions, cash withdrawals, payments to crypto platforms.

Ms K says she realised it was a scam when she ran out of funds and he wouldn't help her withdraw her investment profits. She's explained that she's vulnerable and that this has had a significant impact on her life.

NatWest declined to reimburse the payments – in summary it says they were authorised by Ms K and that it has an obligation to follow payment instructions.

When Ms K referred her complaint to our service, the investigator upheld it in part. In summary, they recommended NatWest reimburse two payments under the contingent reimbursement model (CRM code) but said this didn't apply to the remaining disputed payments. They also said most of the payments wouldn't have appeared suspicious or out of character, and that on the occasion they thought NatWest ought to have done more, they didn't think a proportionate intervention would've prevented Ms K's loss. They didn't think it was likely NatWest could have recovered any funds in the circumstances.

Ms K didn't agree, so the matter has been passed to me for a decision by an ombudsman.

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've reached the same conclusion as the investigator for similar reasons.

I'm sorry to hear about what Ms K has been through and the impact the scam and financial loss continues to have on her. We are an impartial service and so while it awful that Ms K has lost money to a scammer, that doesn't mean NatWest is automatically obligated to refund her loss. Rather I've needed to consider whether NatWest has acted fairly and reasonably in the circumstances.

For clarity, I'm not considering here whether the credit card Ms K took out with NatWest was affordable or how it is now treating Ms K in relation to her financial hardship. Ms K has

complained about the payments themselves being made in relation to a scam and NatWest's decision to hold her liable for them, and so that is the focus of my decision.

It isn't in dispute that Ms K authorised the payments – she has described following the scammer's instructions to send him money in different ways. Sometimes this involved sending money and at other times Ms K would withdraw cash, purchase gift cards or cryptocurrency for his use.

Is Ms K entitled to a refund of any payments under the CRM code?

NatWest is a signatory to the CRM code which provides redress to victims of authorised push payment (APP) fraud in certain circumstances, and so I need to consider it here. In broad terms, the CRM code only applies to transfers to UK accounts held by a third party.

Two payments Ms K is disputing fall into this category - one for £600 on 25 February 2022 and one for £300 on 29 July 2022. NatWest has now agreed to reimburse these as a gesture of goodwill in light of Ms K's vulnerabilities, and so I don't need to go into this point further in relation to those payments.

Ms K also purchased premium bonds, but as this was a legitimate purchase from a genuine business, this wouldn't be covered by the CRM code, even if it was for the benefit of the scammer.

The remaining disputed payments were all either cash withdrawals, card payments or payments to accounts in Ms K's own name and so the CRM code wouldn't apply to those.

Are there any other reasons why NatWest should fairly refund Ms K?

In broad terms, the starting position at law is that a payment services provider such as NatWest is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations 2017 and the terms and conditions of the customer's account.

But taking into account longstanding regulatory expectations and requirements, and what I consider to be good industry practice at the time, NatWest ought to have been on the lookout for the possibility of fraud and made additional checks before processing payments in some circumstances.

Having reviewed Ms K's statements for both accounts, the vast majority of payments wouldn't have appeared out of character or otherwise indicated she was at risk of fraud. This is because the disputed payments vary in type and amount, including but not limited to transfers between accounts, payments to credit card accounts, point-of sale transactions that would have appeared to be for everyday living, and cash withdrawals.

In relation to Ms K's current account, there are a couple of occasions in October 2022 when Ms K made multiple payments to a cryptocurrency platform within a day, and so I think NatWest ought to have recognised that Ms K was at heightened risk of financial harm from fraud when making these payments. However, in order for it to be fair for me to hold NatWest responsible for some of Ms K's losses, I would need to think that a proportionate intervention by NatWest would have prevented Ms K's loss. I don't think that's the case here, I'll explain why.

I recognise we can't be certain what would've happened in a hypothetical situation. But I need to make my finding on what I think is more likely than not, based on the information available. Our service has asked Ms K for a copy of her chats with the scammer which can

often provide helpful insight into the relationship such as the level of trust or control the scammer had over the consumer. It can also clarify whether any conversations took place that would indicate how the consumer would have responded to questions or warnings by their banking provider or others. Ms K says she deleted the app and isn't comfortable trying to recover the messages and share them with our service due to the private nature of their conversations. Whilst this is understandable, it does mean I need to make my finding based on what I do have, for example the actions she took and how she's described their relationship.

By October 2022, Ms K had been (or thought she was) in a relationship with the scammer for over half a year. She has described trusting him enough to share her card and banking information and was so 'under the spell' that she took steps like sending him her credit card with another provider, reading out gift cards over the phone, and buying multiple phones to send him. Ms K has described being emotionally manipulated by the scammer to the point where she was completely under his control and couldn't question his instructions without being accused of not trusting him or loving him. Ms K says that the scammer told her how to answer questions she was asked when making payments. And that throughout the scam she believed he was acting in her interests and that the investments he was making would enable her to have a financially secure future.

With this in mind, I think it's more likely than not that Ms K would have been guided by the scammer in the answers she gave had a more substantive intervention taken place and that she was motivated to make the payments successfully. On balance, this would likely have prevented NatWest from uncovering the scam that was taking place. While I think NatWest ought to have shown Ms K a warning about investment scams, due to the relationship Ms K had with the scammer I'm not persuaded this would have resonated with her or prevented her from continuing to make payments.

In relation to the credit card payments, having considered when they were made, their value and who they were made to, I'm not persuaded NatWest ought to have found most of the payments suspicious, such that it ought to have made enquiries of Ms K before processing them. I note that as a new account there wouldn't have been previous account activity to compare it to. Arguably the amount and frequency of cash withdrawals in May/June 2022 ought to have indicated that Ms K was at heightened risk of fraud, but I think a proportionate response to this risk would have been to check they were authorised, which they were.

I understand Ms K has shared some insight with us regarding her vulnerabilities, but I haven't seen anything to support that NatWest was or ought to have had concerns about Ms K's capacity at the time. Our service has not been made aware of any formal assessments concluding that Ms K didn't or doesn't have capacity, and my understanding is that Ms K continues to manage her own finances and is bringing this complaint without a representative.

In terms of whether NatWest ought to have done more once it was made aware of the scam, I've considered whether any funds could have been recovered. For the disputed card payments, as Ms K did receive the goods or services paid for, while it was the scammer rather than her who benefitted from the payments, a chargeback is unlikely to have been successful. In relation to transfers, Ms K is already going to receive reimbursement for payments that weren't made to her own accounts.

My final decision

My final decision is that I uphold this complaint in part and National Westminster Bank Plc should do the following:

1. Reimburse Ms K the £600 payment made on 25 February 2022 and £300 payment made on 29 July 2022 as offered.

2. Pay Ms K 8% per year simple interest on the amount in point 1, from the date it declined to refund the loss to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 7 April 2025.

Stephanie Mitchell
Ombudsman