

The complaint

The estate of Mrs C complain that NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY ("NatWest") failed to prevent the loss of a substantial amount of cash from the account.

What happened

The estate are represented here by Mrs B, so I'll refer to both Mrs C (now deceased) and Mrs B where appropriate.

On behalf of the estate, Mrs B has complained that NatWest failed to prevent the loss of about £50,000 from Mrs C's accounts. It's alleged that her partner (known here as Mr X) manipulated Mrs C into making numerous cash withdrawals and that Mr X also used Mrs C's bank card without the appropriate permissions.

Mrs B has said that upon examining the accounts after her passing, she noticed a number of payments she thought were out of character.

She reported them to NatWest who didn't think there was anything untoward about them and following Mrs B's complaint, they again looked into the matter. NatWest continued to believe those transactions disputed by Mrs B were authorised and declined to refund the estate.

Mrs B remained unhappy and brought the complaint to the Financial Ombudsman Service for an independent review. An investigator was assigned to look into the matter. Both parties were asked to provide information about the situation.

Mrs B was able to say that:

- Mrs C was very unwell leading to her passing and couldn't have made some of those disputed transactions herself due to her numerous conditions.
- She believed that NatWest hadn't followed their internal procedures in respect of the cash withdrawals made in branch.
- It's alleged that her partner (Mr X) manipulated Mrs C into making the withdrawals and used her bank card without authority.
- There were no other authorities recorded for anyone but Mrs C to use the account.
- They believed Mr X knew the pin (personal identification number) for her card.
- NatWest knew Mrs C had severe medical issues and were shown relevant medical details on at least two occasions but didn't appear to have taken this into account.
- NatWest were less than helpful, causing further distress to the family.
- The matter was reported to the police.

NatWest provided details of the accounts, including information about a number of the withdrawals and conversations held within branch.

In summary they said:

- The large withdrawals were made in branch using chip and pin. The other disputed transactions were made using Mrs C's card.

- On at least three occasions NatWest staff asked specific questions related to the reasons for the withdrawals. On all these occasions the staff were satisfied the cash withdrawals were legitimate requests by Mrs C.
- NatWest believed that all the disputed transactions were authorised by Mrs C.
- NatWest had no record of Mrs C declaring her need for additional considerations due to her help.
- NatWest dealt with a complaint made by Mrs C a few months before the first withdrawal dealing with her capacity to make decisions. Mrs C had complained that whilst she had issues with her physical self, her mental capacity wasn't in question.

After reviewing the evidence, the investigator didn't think that NatWest had acted unfairly. It was concluded that the evidence pointed to Mrs C authorising the payments, even if Mr X was also involved in them.

Mrs B, on behalf of the estate disagreed and continued to argue that NatWest should refund those transactions she'd previously identified.

Mrs B was provided some further information in respect of NatWest's activities during the withdrawals. She didn't think they showed sufficient evidence to conclude that the payments were properly authorised by Mrs C.

Mrs B raised numerous questions about the information recorded during the visits, including the location of the visits, how Mr X was referred to, as well as various details she didn't think were consistent or showed that NatWest had acted with insufficient caution given the obvious health conditions affecting Mrs C. Mrs B argued that Mrs C would've been physically unable to answer questions and use the chip and pin machine.

As no agreement could be reached, the complaint has now 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.

I'm very conscious that this complaint deals with a very personal loss of a family member for those involved in the complaint. I have much sympathy for the family and understand that being reminded what happened to Mrs C will be difficult for them.

I'm also conscious that not all parties are joined in this complaint. Mr X, who I understand is also an executor, isn't party to the complaint, so I've taken into account here that he would no doubt have a slightly different version of events. However, my decision is based on the evidence provided by both parties and where there's a dispute about what happened, and the evidence is incomplete or contradictory, I must reach my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence.

My focus is on what I think the key issues are as our rules allow me to do this and it reflects the nature of our service as an informal alternative to the courts. So, if there's something I've not mentioned, it isn't because I've ignored it, it's because I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

The claim here is that the payments disputed by the estate were unauthorised. The relevant regulation specific to this are the Payment Service Regulations 2017 (PSRs). Essentially this says that if the payments are unauthorised, NatWest would generally be required to refund them and if they're considered to be authorised, the account holder would be liable for them.

NatWest's information is that the payments were made using Mrs C's card and pin. NatWest haven't provided all the individual transaction details concerning disputed card payments (unrelated to the large cash withdrawals), but I have no reason to doubt they used Mrs C's genuine card and/or pin to make them.

In respect of the cash withdrawals made in branch – which appear to be the main feature of the complaint, those transactions were carried out using the card and pin whilst at the branch counter with Mrs C present (I say this specifically concerning the three visits with evidence discussing the reasons for the withdrawals), but I have no reason to presume that the other "in person" withdrawals were carried out without Mrs C being present.

I say that because two different branches were involved in the withdrawals – one that was local to Mrs C where it's likely the counter staff had a better understanding of Mrs C's banking needs and the other branch that went through specific scam and fraud questioning with her, including asking for identity documents. This branch wasn't used as often so the staff likely knew little about Mrs C's particular circumstances. All three scam questionnaires confirm that Mrs C was present.

The estate argue that Mrs C was incapable of going through with the transactions given her health conditions and have provided a summary of her medical state and the various drugs she was taking. An opinion by a doctor was that Mrs C's conditions and medication "*could have impaired her capacity*".

There was no capacity assessment carried out as far as I'm aware, so it's assumed (Mental Capacity Act 2015) that Mrs C still had capacity in respect of her own decisions. The timeline of events is useful in providing an insight into Mrs C's decisions leading up to her passing in May 2022.

In 2020, Mrs C was involved in the purchase of a property and used her NatWest account to transfer a considerable sum to a solicitor (September 2020). The transfer caused her to complain about her treatment at her local branch. Comments recorded in NatWest's records at the time indicate Mrs C told NatWest "*its my body that is the problem, not my mind*". So from this comment, it's reasonable to conclude that Mrs C was making decisions for herself.

The first withdrawal that's been complained about took place a few months later. There's no indication that Mrs C was impaired in any way concerning her wish to take funds out of her account. The records show branch staff went through their scam and fraud protocol with Mrs C present. Mrs C told the staff that the cash was for building work. Given the relatively close timing to the house purchased and Mrs C's earlier comments, I can't see how she was unaware of what she was doing, even if she was accompanied by Mr X (who was described as her partner).

It's not unusual for partners to help with banking (even if this is strictly against the banking agreement without further steps being put in place), so Mr X's presence in the branch isn't something I'd expect the staff to be concerned about – particularly if Mrs C had need of assistance due to her medical conditions.

Various other withdrawals were made at the branches, and the available records indicate a similar pattern of discussions with Mrs C about the reasons for the cash. The final withdrawal took place in November 2021. This visit was recorded by NatWest in respect of the scam and fraud questions asked of Mrs C.

In May 2022 Mrs C recorded her final will in front of witnesses before sadly passing away a few months later. Given that Mrs C was able to complete the will in front of witnesses, I don't think it's unreasonable to conclude that she retained some capacity, although I'm not able (nor should I) to make any specific finding about her mental capacity at that point.

I've thought about Mrs B's submissions here and the discussion she had with Mrs C in March 2022. That discussion indicated Mrs C wanted to make arrangements for her estate that differ from her final will. I can't know what went on here, nor do I think it's relevant

beyond supporting the conclusion that whilst Mrs C was very ill, she was still able to communicate her wishes.

I noted that the loss of the funds were also reported to the authorities. My understanding is that nothing further happened, so I've not given the report much weight in my considerations.

I've also thought about the pattern of payments. The seven withdrawals were made over about a year, with gaps of several months between some of them. There's no obvious suspicious pattern here that would lead me to a conclusion that something untoward had happened.

What I can conclude here is that there's little evidence I can rely on to support the assertion that somehow Mrs C was pressured or persuaded to make withdrawals by Mr X. He was not only a joint executor, but also a beneficiary of property in the will. It's possible that somehow there was unseen pressure on Mrs C, but as I'm bound to make a decision based on the actual evidence and the probability of what happened – there's little for me to rely on that supports the complaint.

I've considered the various arguments about NatWest's procedures, but I haven't found anything that would indicate the withdrawals were somehow unauthorised. Even if NatWest failed to follow internal procedures concerning the notice for withdrawals (which is part of the case made by the estate), it still wouldn't change the outcome. Simply that if Mrs C wanted cash from her account and NatWest were able to provide it (as is their obligation to an account holder), then once she uses the appropriate process (here chip and pin) to confirm her permission for the transaction, it's considered authorised.

The estate have also argued that Mr X knew security information about Mrs C's account that allowed him to use it. They argue this is evidence that the transactions were unauthorised. I don't know what arrangements were in place as I wasn't present. But, it seems to me, based on the evidence, that Mrs C never raised any issues herself about the use of the account and confirmed to NatWest staff on several occasions that she hadn't been asked to conceal anything from them. So, even if Mr X knew the pin, I think it's more likely than not this was by arrangement. That would mean his use of the card was within the authority granted by Mrs C, so transactions carried out by him would have the same authority as if they were carried out by Mrs C.

I acknowledge the arguments made by Mrs B on behalf of the estate and appreciate they think differently to the conclusions I've reached here. As I mentioned earlier, I have to make my decision based on the evidence. Having considered all the arguments, I don't think NatWest acted unfairly.

The use of the card and pin by Mrs C, even if Mr X assisted is in line with her account and I think it's more likely than not that Mrs C was responsible for those transactions herself or they were made with her permission. So, I don't think it would be fair or reasonable to ask NatWest to refund the estate.

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 the estate of Mrs C to accept or reject my decision before 3 November 2025.

David Perry
Ombudsman

