

The complaint

h complains that National Westminster Bank Plc (NatWest) hasn't refunded it money it says it lost to a scam.

What happened

In October 2023, h was approached by a new customer about financing an agreement for a second-hand car. In summary, h found a company to finance the car purchase and a loan was arranged for this customer. h then paid these funds (£14,000) to what it understood was the car dealership ("Z") and the customer said they received the car.

h was then contacted by the company who provided the car finance and was informed that this was a fraudulent loan. The finance company, under its agreement with h, explained h was now liable to repay these funds as the loan agreement wasn't enforceable against the customer. h complained to NatWest about the faster payment it had made to move the loan funds from its account to Z. It said this was a scam. NatWest incorrectly informed Z it would be refunded this money. It later confirmed it couldn't recover h's money and also said it wasn't reimbursing it.

h complained to NatWest about the misinformation and about not being refunded. NatWest didn't uphold its complaint, but overall offered £500 compensation for the misinformation. h didn't accept this and came to our Service. Our Investigator awarded a further £750 as they felt there had been multiple errors which had a great impact on h as a small business, but they didn't think NatWest needed to refund h. h asked for an Ombudsman to reconsider their case. NatWest agreed with the outcome and to pay the additional compensation.

I issued a provisional decision on this case in early February 2025. My provisional findings were as follows:

In broad terms, the starting position in law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair or reasonable for the bank to reimburse the customer even though they authorised the payment. Of particular relevance here is the Contingent Reimbursement Model ("CRM") code (or "the Code"), so I've looked at whether h is due a reimbursement of the money it sent under this.

First I have considered whether h benefits from the Code. Section DS1(2)(e) sets out the definition of a "Customer" and (e)(ii) explains the test for a Micro-enterprise. Having reviewed this and h's company information, I'm satisfied they meet this definition and so could benefit from the Code.

However, the Code doesn't apply to all APP payments which ultimately result in a loss for the customer. It only covers situations where the payment meets its definition of an APP scam. The relevant definition for this case would be that h transferred

funds to another person for what it believed was a legitimate purpose, but which were in fact fraudulent.

NatWest doesn't consider that the payment in question here meets this definition. It says this is a private civil dispute and so falls outside of the scope of the Code. Whereas h says it has been scammed.

I have reviewed the information both NatWest and h have supplied and based on this I'm satisfied that h has been the victim of a scam, as defined by the Code. I'll explain why.

NatWest believes that Z is a genuine firm which is registered on Companies House and has been operating for over ten years. To avoid confusion, I will refer to the firm registered on Companies House as firm "S" and the company h paid will remain Z. The information I hold suggests the Electronic Money Institution (EMI) account h paid does not actually belong to S and has been set up by a third party without S's knowledge. And that Z is a fraudulent firm.

I contacted the EMI who provide the receiving account and they sent the account statements to us. As part of h's verification process, Z was required to provide h with a bank statement. The EMI has confirmed Z requested a statement on the account at the time h requested one. But we have evidence to show the statement h was provided with is a forgery.

The statement the EMI supplied us with for October 2023 shows a £0.00 balance. The statement h received showed a balance of over £29,000, indicating Z requested a statement and then tampered with it, so it looked like it was running a successful and longstanding business. However this was a brand new account. This account also only received credits from h and one other firm in the same industry between October 2023 (when it opened) and June 2024. By December 2023 only £1.03 remained in the account and up until June 2024 – where we have seen statements up to – no other account activity occurred.

Using details online, I was able to speak to the Director of S and he confirmed he stopped trading in 2022. As per the details on Companies House, he has liabilities which mean his business needs to remain Active, but he confirmed he hasn't sold cars for some time. He also confirmed the nature of his business, and it doesn't seem the car involved in this payment would've been one that S would've ever sold.

When h's director became aware of the fraudulent finance application, he visited S/Z's registered address and said the dealership was boarded up. Looking at 'Street view' on the Maps feature of a popular search engine, you can see that the unit was advertised as being 'To Let' in June 2023. This is in line with S's director saying he'd ceased trading long before this payment was made and supports h's testimony that it's been scammed.

While I accept that S is a genuine firm, I'm not persuaded it was actively selling cars in 2023 or that it set up the account h paid. I also note the invoice h was given by Z doesn't have the same details on it as S has on the FCA register. And S stopped being regulated in October 2023, around the time of this transaction. I accept the name and the address on the account is the same, but bar this I can't see anything that links S and Z. The evidence we hold indicates that it's most likely Z fraudulently set up an account in the name of S and used this to accept funds from h, meaning this payment can be considered for reimbursement under the CRM code.

Under the provisions of the Code, both the bank and its customer have obligations. If it can be shown that the customer has met their requisite level of care, then they will receive a full reimbursement. If the customer has not done this, then an exception to reimbursement likely applies.

I've first considered NatWest's obligations and whether it failed in any of these. But looking at h's account and the purpose of its business, I'm not satisfied this transaction posed an identifiable scam risk. The payment was in line with the business h operated and very typical for h. So I don't consider NatWest did need to provide a warning relating to scam risks for this particular transaction, in line with SF1(2).

Moving to exceptions for reimbursement, R2(1)d of the Code sets out the test that applies to a Micro-enterprise. This set out that an exception to reimbursement can apply if the business's own internal procedures for approving payments were not followed and if they had been, the loss would've been prevented.

We asked h for the steps it completes for paying a new dealership and it provided us with the paperwork that needs to be completed. Part of this process involved h completing two forms, both of which required h to complete the website and email address for the dealership. h has confirmed to us that the information on the website needs to match Companies House and the FCA register, and the forms would be checked and verified.

I've reviewed the information provided on the FCA register for S and neither the email address nor the website match the invoice supplied to h by Z. I have also listened to h's call with Z and on this call it confirms the email address on the invoice, which is not S's genuine email. I accept that it's possible the email on the register may not be the same as the one used for sales, but the websites should match. And in any event, h should've questioned with Z why the emails didn't match, as part of its process is to verify these details. I haven't seen any evidence it did this.

Had h followed its processes and so spotted this discrepancy, it seems most likely it would've realised this interaction wasn't legitimate. Z wouldn't have been able to adequately explain why the details didn't match or provide an email to h using the email address on the register. I'm aware this still belongs to and is controlled by S. And by using a tool which provides past snapshots of websites at different points in time, it seems that in April 2023 S's website was blank and remained that way until the domain came up for sale. So h could've seen that the website on the FCA register was not longer active, raising further concerns. Based on this and in line with its own processes, h shouldn't have accepted Z as a new dealership – so shouldn't have then made a payment to it.

I accept h is the victim of a scam here, but looking at the information we hold, I can't fairly conclude its due reimbursement under the Code. The evidence we hold indicates that if it had verified the details given, it would've realised Z wasn't linked to

S and so wasn't a genuine, registered firm, or one it should send this money to. So this means an exception to reimbursement does apply and no reimbursement is due.

I've then considered whether h's money could've been recovered from the receiving EMI. NatWest didn't report the payment as quickly as it should have, but after receiving information from the EMI, I can't say this has impacted the recovery prospects here.

While, in line with best practice standards, NatWest ought to have sent an indemnity request to the EMI on 9 November 2023 by 11am, the EMI has confirmed it aims to action these within 30 days. I've seen statements for the receiving EMI account and by the evening of 9 November 2023, none of h's funds remained. So, considering the EMI's timescales here, I'm not satisfied NatWest could've recovered h's funds, even if it had done the indemnity as it should have.

Our Investigator increased the compensation offered on this case and suggested NatWest should pay an additional £750 to h for the poor service it received. In response to the view, NatWest agreed to pay this figure and h also agreed to this award for the misinformation. Given both parties have agreed to this compensation award, I don't consider I need to make any finding on this.

In response to the view, h also said that it would expect NatWest to act in line with what it (incorrectly) told h would happen – and so it should provide a full refund of the payment. But I can't agree with this. First, h wouldn't be due compensation for the misinformation if NatWest was then made to act as if this wasn't misinformation. But more importantly, I can't say this would be fair compensation. NatWest shouldn't have made an error – and I recognise it did. But our Service looks to put someone in the position as if that error hadn't occurred, not in a position of betterment. h wasn't ever guaranteed a refund and it wouldn't have got the funds back within 24 hours or even 24 days – so I can't fairly direct NatWest to put it in this position now.

NatWest accepted the provisional decision. h rejected it and said that its own email address on the FCA register didn't match the email it uses generally, so it can't be said it was negligent on this point. It said it wouldn't have known it received a false statement from Z and it raised failings by NatWest that it considered meant a 50/50 split of liability was fair here, not the outcome I reached. It said it didn't agree to the compensation award.

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've reviewed the further comments h made in detail and revisited the case. But I'm not persuaded my provisional outcome should change, I'll explain why.

First, I agree that h wouldn't have known Z provided a false statement. This was evidence I relied on to say Z was a scammer, not to find fault in h or its processes. However, when we asked, h told us that its process is to verify the email address of the new dealership as well as the website address. It's now unclear how h verifies the email address if its aware that the FCA register email is unlikely to match the email it corresponds with. But the key point here is that h told our Service what its internal process is, so what I have looked at is whether h then followed this. And we know the emails did not match and so weren't verified.

In my view, of more importance is the website address not matching, as it's accepted these should have. h responded and said it can see validity in my point around this, but also said the website was only one letter different, so this would be hard to spot. I'm afraid this isn't a valid reason for h not spotting this discrepancy.

I would expect that a common tactic by scammers would be to use a very similar website name so that a customer may not spot this discrepancy. But that isn't the same standard h can be held to as a business, especially as it put a process in place to check and verify these details. I expect that one of the reasons for this process was to prevent the exact kind of scam h fell victim to. And I'm still persuaded that had it followed the process as it should have, and thoroughly checked the details, it would've realised this discrepancy and the scam would've unravelled.

h has argued that other data did match and that the customer provided an illegally obtained driving license to confirm their identity. But this isn't relevant to the core issue here, that h failed to verify all Z's details in line with its own procedures and the required paperwork it shared with us.

Ultimately I'm, satisfied that h failed to follow its internal procedures in verifying the new dealership, so that it could make this payment. And had it done so, it would've realised this was a scam. So under the Code – which is the test here – an exception to reimbursement does apply and NatWest isn't required to reimburse h.

I set out in the provisional decision that I'd considered the recovery steps NatWest took and the mistakes made in relation to this. But I also explained how I'd been able to contact the firm who received the money and due to this conversation, I was satisfied NatWest's mistakes didn't materially impact what happened, the funds couldn't have been recovered. I agree with h NatWest shouldn't have made mistakes, but as it ultimately didn't change what happened, excluding factoring in this error in my compensation award – as I have, this doesn't change the overall outcome.

I previously concluded h accepted the additional £750 compensation for misinformation, as I listened to his call with our Investigator and h said *"I agree with the compensation for the misinformation..."*. But as this wasn't its intention, I've revisited the amount awarded.

h has pointed out how NatWest's misinformation impacted it and said that due to this it considers they should share liability for the loss. But this isn't how our Service operates nor would I consider this fair.

I've considered whether a total award of £1,250 for the errors made is fair and I think it is. I can't agree that the misinformation given warrants compensation at a rate of 50% of the funds lost to the scam, £7,000. I don't agree this is proportionate to what happened here. NatWest didn't fail to prevent this scam and isn't due to refund h any of the amount lost. I appreciate this scam has had a huge impact on it as a small business, but NatWest isn't to blame for that.

While NatWest does misinform h on the second call it has, the first call does explain NatWest will need to investigate what's happened and it will take over three weeks to reach an outcome. And while h says it was verbally guaranteed it would receive the money back from the FSCS on this call, this isn't correct. The advisor explains h would need to speak to business banking about this as they work in personal banking. I accept the same advisor says they expect h would be covered, but that isn't a guarantee, especially as they've just confirmed this isn't their area of knowledge. And h doesn't ask the business banking advisor about this on the next call.

I accept h didn't expect to need to pay back the scammed sum and that it took around a month for it to understand it would have to do this. But it has arranged a payment plan for this, so it hasn't been expected to repay this all at once. I've also considered that h says it made staffing and marketing decisions during the time it expected to get the funds back. But based on the impact h has shared and our Service's published approach to compensation awards, I'm not increasing the amount set out in my provisional decision and so consider an additional £750 a fair resolution to this case.

My final decision

I partially uphold this complaint and direct National Westminster Bank Plc to pay h an additional £750 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask h to accept or reject my decision before 26 March 2025.

Amy Osborne
Ombudsman