

The complaint

A company, which I'll refer to as A Ltd, complains that NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY ('NatWest') won't reimburse the money lost to a scam.

Mrs B, who is a director of A Ltd, brings the complaint on A Ltd's behalf.

What happened

Mrs B says that she and her husband invested in a start-up company. The investment opportunity was introduced to Mrs B's husband by a neighbour (T) who was the director of a consultancy company (G), and involved buying shares at £1 each which would be valued at £10 when the company floated.

Between 15 April 1999 and 3 July 2020 Mrs B says she made three cash withdrawals from A Ltd's account. The cash was then handed to the director of G for the purpose of the investment. There were also transfers to G of £50,000 on 10 August 2020 and £10,000 on 28 September 2020. Cash withdrawals made from Mr and Mrs B's joint account are being dealt with under a separate complaint.

Mrs B, on behalf of A Ltd, didn't receive a contract or any returns and Mrs B believes she is the victim of a scam. Her representative complained to NatWest in March 2023.

NatWest said that a claim hadn't been raised and, later, that it wasn't responsible for the loss.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. He noted that as funds left A Ltd's account, A Ltd is the eligible complainant in this case. But the investment wasn't for the benefit of A Ltd, and A Ltd didn't suffer a loss. Instead, Mrs B owes A Ltd the funds that were removed from its account.

Mrs B, through her representative, didn't agree with the investigator's findings and asked for a final decision, so the complaint has been passed to me. She said that Mr B was acting in a personal capacity on behalf of A Ltd and was following instructions from Mrs B. The only reason the reference for the faster payments was Mr B's name was for identification purposes, and no contracts were received in any name. Mrs B went on to say that as funds left the company account, the loss is A Ltd's.

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.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – in other words on what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

The first question I need to consider is whether Mrs B invested on behalf of her business or personally. This finding is important because if Mrs B used A Ltd's funds to invest personally, then A Ltd hasn't suffered a loss. Mrs B would have removed the funds from the business – either as a director's loan or dividend. So Mrs B would owe A Ltd the money and A Ltd would not have lost any money itself.

I'm afraid that I don't consider the evidence available supports a finding that Mrs B invested on behalf of her business. It follows that I can't ask NatWest to reimburse A Ltd for a loss that it has not suffered.

In reaching this conclusion, I have considered Mrs B's intention – how she viewed the money that she removed from her business account at the point she removed it. I've also thought about whether A Ltd recorded the money in its accounts in a way that was consistent with the money having been invested on its behalf.

It's clear that Mr B interacted with T and completed all steps required to make the investment. When this complaint was first raised it was in Mr and Mrs B's sole names, but authority was only given in respect of Mr B. The letter of complaint referred only to Mr B's interactions with T (*"I had regular contact with [T] via all forms of communication, email, text, whatsapp [sic], video call, voice messages and several meetings over several months"*). In the submission Mr B said he was provided with a detailed application to open an account with E *"who would be issuing me with a share certificate"*. It was also Mr B who completed checks before deciding to invest, and Mr B who was involved in a messaging app group with other investors.

The payment reference chosen when the payments were made was Mr B's name rather than A Ltd. I consider the payment could have been identified just as easily using the name of the business. I can also see that a representative of the company the investment was meant to be with emailed Mr B on 23 October 2020 and said she would be opening an account for him, and his shares would be transferred to this account. There is no mention of A Ltd.

Mr B wasn't a director or employee of A Ltd, so it's hard to see how he was completing the steps I have referred to above on behalf of the company.

Other evidence shows that Mrs B, as the director of A Ltd, wasn't involved in the investment. When NatWest called to discuss it with her, she explained that Mr B was involved in the investment.

I've also looked at the accounts A Ltd filed at Companies House and can't see anything relating to the funds sent to G for an investment.

Overall, I don't think the evidence supports a finding that the payments made from A Ltd's account were for business purposes. I consider that the payments related to Mr and Mrs B's personal investments and therefore A Ltd did not suffer a loss as a result of them.

As I have reached the conclusion that A Ltd didn't suffer a loss as a result of the payments, I haven't gone on to consider whether I consider funds were lost to a scam.

I know this will be very disappointing for Mrs B, as she's lost a considerable amount of money. But, I can only consider whether A Ltd has suffered a loss and, for the reasons I've explained, I don't think it has. So I don't think that NatWest has made an error in declining to reimburse A Ltd.

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask A to accept or reject my decision before 24 April 2025.

Jay Hadfield
Ombudsman