

The complaint

Mr S is being represented by solicitors. He's complaining about National Westminster Bank Public Limited Company because it declined to refund money he lost as a result of fraud.

What happened

Sadly, Mr S fell victim to an investment scam. He was introduced to the scheme, which purported to be making high returns trading in foreign exchange by a work acquaintance. Mr S invested with cryptocurrency. This was purchased with multiple transfers to a cryptocurrency provider with a combined value approaching £100,000 from his NatWest account between January and July 2021.

Our investigator didn't recommend the complaint be upheld. While she felt NatWest should have done more to warn Mr S that the payments could be part of a scam, she didn't think any intervention by the bank would have stopped him from making the payments. In reaching this conclusion, she particularly referred to how Mr S reacted when another bank, from which he also made payments to the scam, did contact him to discuss the payments he was making..

Mr S didn't accept the investigator's assessment and his representative made the following key points:

- The payments were sufficiently unusual that NatWest should have contacted Mr S to discuss the surrounding circumstances at an earlier stage than was suggested by our investigator.
- If NatWest had contacted Mr S, the outcome could have been different. It could have established what he was doing with the money and given warnings to highlight the significant risks involved.
- NatWest was an FCA-regulated organisation with which Mr S had a long-standing relationship. This means he would have taken any warning seriously, particularly as he couldn't afford to lose this money.
- Mr S was vulnerable at the time due to the effects of the Covid-19 pandemic on his business and housebuilding project.
- These payments pre-dated those made from the other bank and an appropriate intervention from NatWest could have prevented those losses as well.

The complaint has now been referred to me for review.

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 overall conclusions as the investigator, and for broadly the same reasons. I haven't necessarily commented on every single point raised but concentrated instead on the issues I believe are central to the outcome of the complaint. This is consistent with our established role as an informal alternative to the courts. In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time.

In this case, there's no dispute that Mr S authorised the payment.

In broad terms, the starting position at law is that a bank such as NatWest is expected to process payments a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of their account. In this context, '*authorised*' essentially means the customer gave the business an instruction to make a payment from their account. In other words, they knew that money was leaving their account, irrespective of where that money actually went.

In making this complaint, Mr S's representative referred to a bank's responsibilities under the Contingent Reimbursement Model (CRM) Code. But that's not relevant to the outcome of this case as the Code didn't cover payments to accounts in the customer's own name.

There are, however, some situations where we believe a business, taking into account relevant rules, codes and best practice standards, shouldn't have taken its customer's authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before making the payment.

NatWest also has a duty to exercise reasonable skill and care, pay due regard to the interests of its customers and to follow good industry practice to keep customers' accounts safe. This includes identifying vulnerable consumers who may be particularly susceptible to scams and looking out for payments that might indicate the consumer is at risk of financial harm.

Taking these things into account, I need to decide whether NatWest acted fairly and reasonably in its dealings with Mr S.

The payments

Aside from generic fraud and scam warnings shown when Mr S made the payments, NatWest has confirmed that it had no additional concerns about any of them and none of them were identified as requiring further checks.

In view of the volume of payments being made to cryptocurrency, which NatWest should have known carried a higher risk of being associated with fraud, I do agree with the investigator that the payment of £7,000 on 23 February 2021 would have been a reasonable point for the bank to intervene. I've seen nothing to indicate NatWest was made aware that Mr S was vulnerable at this time. But the payment was significantly larger than those that had gone before and a pattern or repeated payments common to many types of scam was beginning to emerge by this time.

In view of the risks presented by the payment on 23 February, I think a proportionate response would have been for NatWest to have contacted Mr S to discuss the circumstances of the payment. I've thought very carefully about the effect such an intervention might have had.

In response to our investigator's enquiries, Mr S explained in some detail why he believed this was a genuine investment opportunity. In addition to being recommended by an acquaintance who had held senior positions in the banking industry, Mr S has said he carried out his own research and found many positive TrustPilot reviews. He also said he found the website, which included live software showing active trades, to be professional and was reassured by the tight security controls covering access to his account. Further, he mentioned that those running the scheme were experienced in the industry and gave regular presentations that were attended by hundreds and sometimes thousands of investors.

This all suggests Mr S was somewhat under the spell of the scammers at the time and I need to decide whether it's likely that an intervention from the bank would have opened his eyes to what was really going on and stopped him from making further payments.

In reaching a conclusion on this issue, I noted that Mr S was contacted by another bank on two occasions about payments made to the scam from its account. He also made a complaint about that bank and its submissions to us included a recording of a telephone call questioning a payment made in August 2021.

During that call, the information Mr S provided about what he was doing wasn't entirely accurate. When asked what would happen with the cryptocurrency once it was purchased, he said that only he would have access to it and that the broker he was using wouldn't be making trades on his behalf, only assisting him with the purchase.

While the answers Mr S gave didn't allow the bank to identify exactly what type of scam was taking place, its agent did warn that some third parties can show fake investment platforms and promise returns that are too good to be true. In return, Mr S said the broker he was using was registered and had been recommended to him by someone *'very high up in the banks'*. Mr S said he knew cryptocurrency wasn't regulated and was aware of the risks. He actually went as far as saying he wouldn't try to hold the bank accountable if this did turn out to be a scam, emphasising the level of confidence he had in the scheme.

Mr S was audibly annoyed at being asked about what he was doing with his money, at one time threatening to close his accounts with the bank if he had to go through this process again. He questioned more than once why the bank thought it had any business asking about this and said that he didn't need this *'nonsense'*. Mr S implied that he knew more about cryptocurrency investing than the bank's agent and referred to scaremongering about this issue by people who don't understand it.

I appreciate this call came some time after the payment in February 2021. But I've no reason to believe Mr S was any less convinced the scheme was genuine at this earlier stage or that he'd have been inclined to be more open and co-operative if NatWest had contacted him than he was in response to the other bank's enquiries.

It's with these points in mind that I don't think a proportionate intervention by NatWest in February 2021 - or at any other time for that matter - was likely to have been successful in stopping the scam. On balance, I think Mr S would still have wanted to go ahead with the payments and that his losses wouldn't have been avoided.

I've noted the comments from Mr S's representative that he would have taken a warning from a regulated bank seriously. But the other bank was FCA-regulated and its attempts to warn him weren't heeded. Mr S was also quite dismissive of the FCA during the call with the bank and I don't think NatWest's regulatory status would have been a factor in how any warning was received.

I want to be clear that it's not my intention to suggest Mr S is to blame for what happened in any way. He fell victim to a sophisticated scam that was carefully designed to deceive and manipulate its victims. I can understand why he acted in the way he did. But my role is to consider the actions of NatWest and, having done so, I'm not persuaded these were the cause of his losses.

Recovery of funds

I've also looked at whether NatWest could or should have done more to try and recover Mr S's losses once it was aware that the payments were the result of fraud. The bank has provided evidence showing it did contact the cryptocurrency providers, but unfortunately these attempts weren't successful in recovering any money.

I understand Mr S didn't notify NatWest about this until some time after the last of the payments were made. It's a common feature of this type of scam that the fraudster will move money very quickly to other accounts once received to frustrate any attempted recovery and I don't think anything that NatWest could have done differently would likely to have led to those payments being recovered successfully after this period of time.

In conclusion

I recognise Mr S has been the victim of a cruel scam and I'm sorry he lost this money. I realise the outcome of this complaint will come as a great disappointment but, for the reasons I've explained, I don't think any further intervention by NatWest would have made a difference to the eventual outcome and I won't be telling it to make any refund.

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 S to accept or reject my decision before 22 April 2025.

James Biles
Ombudsman