

The complaint

Mr B complains that the NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY (NatWest) won't refund payments he made as part of a scam.

What happened

The background to this complaint is well known to both parties, so I won't repeat it in detail here. But in summary, I understand it to be as follows.

In March 2023, Mr B was looking to refurbish his home. Following a personal recommendation, Mr B contacted Company A and, following some conversations regarding the proposed works, decided to employ their services to carry out the work.

Unfortunately, over time, numerous issues arose which resulted in significant damage to Mr B's property.

In August 2023, Mr B received email correspondence from the director of Company A confirming that they would not be undertaking any further work on his property.

In January 2024, having had no refund or remedial work carried out by Company A, Mr B contacted NatWest and asked that they refund his losses as he felt he'd been the victim of a scam.

NatWest investigated the complaint but declined it on the basis that it was a civil dispute between Mr B and Company A. Unhappy with this response, Mr B referred his complaint to our service.

An investigator looked into Mr B's complaint but didn't uphold it. The investigator said that they didn't think there was sufficient evidence to demonstrate Mr B had fallen victim to an APP scam under the Contingent Reimbursement Model Code (CRM Code) and NatWest weren't liable to refund him.

Mr B disagreed with the investigator's findings and supplied further evidence and arguments, including the following:

- Company A didn't meet their obligations under The Consumer Rights Act 2015.
- Company A are in breach of contract.
- Company A continue to seek further payment from Mr B and have subjected him to intimidation and harassment.
- Mr B believes he's been double invoiced and paid for work which hasn't been undertaken.

As the complaint couldn't be resolved by the investigator it was been passed to me for a decision.

Having reviewed the case, I reached the same overall answer as the investigator, but also addressed additional points which were raised following the investigator's assessment. So, I issued a provisional decision and gave both parties the chance to provide any further evidence they wanted considered before I issued a final decision.

What I provisionally decided – and why

In my provisional decision I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr B has provided detailed submissions to our service in relation to this complaint. In keeping with our role as an informal dispute resolution service, I will focus on the points I find to be material to the outcome of Mr B's complaint. This is not meant to be a discourtesy to Mr B and I want to assure him I have considered everything he has submitted carefully.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached 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.

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

NatWest are a signatory of the CRM Code which requires firms to reimburse customers who have been the victims of authorised push payment (APP) scams in all but a limited number of circumstances.

The relevant part of the CRM Code definition of an APP scam requires that the payment was made to: "another person for what they believed were legitimate purposes but which were in fact fraudulent."

The Code also explains that it does not apply to 'private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier'.

In order to reach my decision on this complaint, I've considered the purpose for which Mr B made, and Company A received, the payments. And, if there is a significant difference in these purposes, whether I can be satisfied that this difference was as a result of dishonest deception.

It's clear that Mr B made the payments in order for building work to be carried out on his property. So, I've gone on to consider what purpose Company A had in mind and whether that was in line with the purpose Mr B made the payments.

Much of Mr B's submissions relate to the standard of work that has been carried out at his property by Company A and the damage these works have caused. But, given the amount of

work that has been carried out, this suggests that the purpose Company A had in mind for the payment matched that of Mr B.

Further, given the amount of work that has been carried out, I'm not persuaded that Company A had no intention of carrying out the work at the time of the payments.

Mr B has alleged that Company A took payment for work that has been duplicated on separate invoices as well as continuing to seek payment from him. But, Mr B has also confirmed that he has received a 'letter before claim' from Company A. Though I've not seen the full details contained within this letter, I think it demonstrates there is a dispute between the two parties as to what is owed and to whom. As that's the case, I'm not in a position to confirm whether Mr B has paid numerous times for work or whether Company A is acting incorrectly in requesting further payment.

Taking the above into account and having reviewed the correspondence between Mr B and Company A, it seems clear that there has been a breakdown in the relationship between the parties. Because of this, I can't agree that Company A's failure to complete works and supply goods to Mr B demonstrates that he has been the victim of an APP scam.

I'm sorry to hear that Mr B has been subjected to harassment by Company A. But, this doesn't demonstrate that Company A didn't have the intention to carry out the work at the time the payments were made. I can only suggest that Mr B raises this with the local authorities if this continues.

Mr B has also alleged that Company A misrepresented their staff's experience prior to carrying out the work at his home. But, even if Company A had misrepresented the experience of their staff, the evidence still suggests that they intended to carry out the work as agreed. Therefore, a misrepresentation doesn't necessarily change the company's intention and any potential misrepresentation in this respect would not mean that the payments meet the definition of an APP scam under the Code.

Mr B claims that Company A are in breach of contract and have failed in their obligations under The Consumer Rights Act 2015. It's important for me to say that my role isn't to determine whether Company A are in breach of their contract or have failed their obligations under The Consumer Rights Act 2015. Instead, my role is to determine whether NatWest have failed in their obligations to Mr B. And, based on everything I've seen, I don't believe that to be the case.

Ultimately, it appears as though Mr B made payments for work to be completed on his property and the evidence supplied to our service doesn't sufficiently demonstrate that Company A didn't have the intention to carry out those works at the time the payments were made. Dissatisfaction with a supplier regarding the quality of goods and services or breaches of contract aren't covered by the CRM Code; and I believe that to be the case in this instance.

I appreciate that Mr B was experiencing some difficult personal circumstances at the time the payments were made but, as I'm not satisfied that Mr B's payments are covered by the CRM Code, I can't consider or apply the vulnerability considerations as set out under the Code. Further to this, as I can't see that NatWest were aware of any potential vulnerabilities at the time of the payments, I can't say that they failed in their duty of care to Mr B.

Lastly, I've considered whether NatWest should've done any more at the time of the payments in order to prevent Mr B's loss. Having reviewed Mr B's account statements, I don't think that the payments were suspicious or unusual enough to have warranted any intervention from NatWest.

I appreciate that this is a lot of money for Mr B. But NatWest has to strike a balance between identifying payments that could be fraudulent and then responding appropriately based on their concerns - and ensuring minimal disruption to legitimate payments. I not satisfied based on the size of the payments, the pattern of the payments or the information available to NatWest that they should've been concerned.

Further to this, even if I was satisfied that NatWest should've intervened, I don't think the answers Mr B would've given to any questions asked by NatWest would've suggested that he might be at risk of financial harm based on the information available about Company A at the time. So I can't fairly say NatWest could've prevented his loss.

Overall, I'm not persuaded that Mr B has fallen victim to a scam, based on the evidence available. Should any material new evidence come to light at a later date, for example from Trading Standards or the police, Mr B can ask NatWest to reconsider his claim.

I appreciate this will be disappointing to Mr B, given the impact this situation has had on him, but I'm unable to say that NatWest are liable to reimburse his losses.

My provisional decision

My provisional decision was that I didn't intend to uphold this complaint against NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY.

Responses to my provisional decision

Mr B responded to say he didn't accept my provisional decision and supplied further evidence and arguments, including the following:

- Company A had acted fraudulently and mis-represented their company, and intentions, to Mr B.
- Company A had charged Mr B for work which hadn't been completed and failed to provide a detailed breakdown of invoices when requested.
- Mr B has been subjected to abuse, intimidation and unresolved remedial costs as a result of Company A's actions.
- Our service should consider his case alongside precedent that has been set in law. Notably, Mr B requested we consider a case in which a rogue builder was prosecuted under Section 9 of the Fraud Act 2006.

NatWest didn't respond to my provisional decision.

Under the Dispute Resolution Rules (found in the Financial Conduct Authority's Handbook), DISP 3.5.13, says, if a respondent (in this case NatWest) fails to comply with a time limit, the ombudsman may proceed with the consideration of the complaint.

As the deadline for responses to my provisional decision has expired, I'm going to proceed with issuing my final 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.

As stated in my provisional decision, I wasn't persuaded that Mr B was the victim of an APP scam. Having carefully considered the additional testimony provided by Mr B, I see no reason to reach a different answer than I did in my provisional decision.

Mr B says he believes Company A has committed fraud under the Fraud Act 2006. He has pointed to a number of their actions to demonstrate this. However, this isn't enough to say that at the time Company A took the payments, Company A never intended to carry out the building work or set out with the intention to defraud Mr B.

I should also state that I have to consider the individual circumstances of Mr B's complaint. Though the builder in the specific court case he has referred to may have been convicted of fraud, there isn't enough evidence to support a finding that Company A set out to defraud Mr B in this specific case.

Mr B has made our service aware that he has received payment from Company A's insurer, following a claim he made against them. But, given I haven't upheld the complaint for the reasons stated above, this hasn't impacted the overall outcome.

Overall, the complaint points put forward by Mr B don't persuade me to reach a different answer. I don't think that the evidence demonstrates that Mr B is the victim of an APP scam as defined by the CRM Code.

My final decision

My final decision is that I do not uphold this complaint against NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 4 June 2025.

Billy Wyatt
Ombudsman