

## The complaint

Miss H is unhappy NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY (“NatWest”) hasn’t offered her a refund after she complained about being the victim of a scam.

## What happened

Miss H was made aware of a private clinic offering cosmetic treatments that I will refer to as “P”. Miss H arranged an appointment with P and in December 2022 she attended a pre-operation consultation and made a payment of £3,995 for the procedure she required. Miss H made this payment via bank transfer as she was told P’s card machine wasn’t working. The payment went to a company I will refer to as “B”. However, Miss H’s contract for surgery was with a company I will refer to as “M”, which was linked to P and B. For the purposes of this decision, I will, in the main, refer to M throughout rather than P or B, as it was M who Miss H had contracted with - although I acknowledge all of the companies are linked.

After Miss H made her payment, a date was then scheduled for her surgery to go ahead. However, in May 2023, Miss H was told her surgery would need to be rescheduled due to staff sickness. Miss H’s surgery was rescheduled but was later cancelled again. And, after some further back and forth between Miss H and P, it stopped responding. It later came to light that M had gone into liquidation.

Miss H now feels she has been scammed and so she reported what had happened to her to NatWest and asked it for a refund of the amount lost. NatWest didn’t agree to offer Miss H a refund. It said it didn’t think she had been the victim of a scam at all. It thought her circumstances amounted to a private civil dispute because she had paid a legitimate company that had unfortunately gone into liquidation.

Miss H disagreed with what NatWest said and she brought her complaint to this service where one of our investigators looked into things.

Our investigator didn’t recommend the complaint be upheld. They agreed that Miss H’s circumstances most likely amounted to a civil dispute, rather than a scam that NatWest should become involved in now. They acknowledged that M had treated Miss H poorly during her dealings with it and its associated companies but they didn’t think there was enough evidence to say M had most likely set out to defraud Miss H from the outset.

Miss H didn’t agree with the investigator’s findings. She said she had been tricked into paying for her procedure via bank transfer to make sure she wasn’t afforded the consumer protection a card payment would’ve provided. She pointed out that there had been a number of other women who’d experienced the same treatment as her and that B had featured on a TV show which sought to publicise how its customers had been treated. Finally, Miss H pointed out that the director of M had a history of liquidating businesses but then continuing to operate under a different name.

The points raised by Miss H didn't change our investigators mind and as an informal agreement could not be reached, the case has been passed to me to decide.

### **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.

In deciding what's fair and reasonable, I am required to take into account relevant law and regulations, regulators' rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.

Having done so, I agree with the outcome reached by our investigator, for largely the same reasons. I'll explain why in more detail below. However, before I go on to address the merits of Miss H's complaint, I firstly need to make it clear that my role in deciding this case is to consider whether NatWest has treated Miss H fairly and reasonably when declining not to refund her loss. It is not to look into the alleged fraudulent activities of B or M which I do not have the power to consider.

#### *The CRM Code*

NatWest is a signatory to the Lending Standards Board's Contingent Reimbursement Model Code ("The CRM Code"). Under The CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an authorised push payment ("APP") scam, except in limited circumstances. But the CRM Code only applies if the definition of an APP scam, as set out in The Code, has been met. When deciding this case, I have therefore considered whether Miss H's claim falls within the scope of the CRM Code, which defines an APP scam as:

*"...a transfer of funds executed across Faster Payments...where:*

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent."*

Therefore, in order to decide whether Miss H has been the victim of an APP scam as defined in The CRM Code, I have considered:

- The purpose of the payment and whether Miss H thought this purpose was legitimate.
- The purpose the recipient (M) had in mind at the time of the payment, and whether this broadly aligned with what Miss H understood to have been the purpose of the payment.
- Whether there was a significant difference in these purposes, and if so, whether it could be said this was as a result of dishonest deception.

Miss H thought she was paying a private clinic for a surgical procedure. I haven't been provided with any evidence to suggest Miss H didn't think this to be a legitimate purpose. So, I've then gone on to consider, based on the evidence available to me, the purpose M likely had in mind when it took Miss H's funds and whether this aligned with hers.

Overall, I'm not satisfied Miss H has sufficiently demonstrated it's more likely than not M had a different purpose in mind when it took her payment or that there was an intent to defraud her from the outset. I'm not persuaded that the evidence provided supports that M never intended to carry out the surgical procedure Miss H paid for. I say this because:

- Miss H signed a contract with M and she was provided with pre-op consultation documents. She also attended a pre-op consultation where she apparently spoke with a medical professional. And whilst Miss H has provided evidence that the care being provided by the clinic may have been considered poor, it remains that P was operating as a private medical clinic which provided cosmetic treatments at the time Miss H made her payment. Miss H attending a pre-op consultation is not indicative of an intention to deceive from the outset, rather it suggests the practice was running as agreed.
- I can see that M was a registered company that was incorporated in 2017 and that a voluntary liquidator was appointed in August 2023. So, at the time Miss H made her payment, M was an active company registered on Companies House and had been for some time.
- Whilst I am unable to share details about a third party and the nature of their relationship with their bank, the evidence I've seen regarding the beneficiary account indicates M's account was legitimate and being run in line with M's business model.
- I've not seen any evidence from any external organisation that has concluded that M intended to use Miss H's funds for a different purpose to the one agreed with her.

So, whilst I'm very sorry Miss H hasn't received the procedure she paid for, this isn't enough, in and of itself, to bring her claim within the scope of the CRM Code. Businesses can fail for many reasons including poor management and relationship breakdowns. I haven't seen anything to persuade me that it's more likely than not Miss H's surgery didn't take place because of fraud rather than because the business got into financial difficulty and ultimately failed.

I acknowledge what Miss H has said about a number of other women finding themselves in the same situation as her. But, as I've said above, I haven't seen any evidence that persuades me that this is more likely because of fraud rather than a business suffering from financial difficulties and going into liquidation. I also want to assure Miss H that I have carefully considered what she has said about being asked to pay via bank transfer rather than by card, which would have provided her with more protection. I don't doubt what Miss H has told us but again, there could be many reasons why a business would prefer payment by bank transfer and in this particular case, I can't rule that Miss H was asked to by bank transfer for a legitimate reason. I haven't been provided with any evidence that supports Miss H was asked to pay for her treatment by bank transfer because M wanted to defraud of her funds.

I have gone on to consider whether there is any other reason I can require NatWest to reimburse Miss H. NatWest should be on the lookout for, and protect its customers from, potentially falling victim to fraud or scams. This includes monitoring accounts and identifying suspicious activity that appears out of character. Where potential fraud is identified, I would expect NatWest to intervene and attempt to prevent losses for the customer. But here, I don't think NatWest ought reasonably to have intervened when Miss H made the payment now under discussion here. But even if it had, I don't think that NatWest wouldn't have had any concerns as I'm persuaded Miss H was paying a legitimate business.

I know this decision will be a huge disappointment to Miss H. I know she has lost a considerable amount of money and what has happened has caused significant upset but I can't reasonably say that this situation meets the definition of an APP scam as set out in The

CRM Code. What I have said here doesn't mean Miss H doesn't have a legitimate grievance against M. It's clear she has been treated poorly. But for the reasons I've explained, I don't think her circumstances meet the high legal bar for this to be a scam and therefore I don't think it was unfair for NatWest to take the view that her circumstances amount to a private civil dispute. For these reasons, it wouldn't be fair for me to hold NatWest responsible for the money Miss H has lost now.

If material new evidence comes to light at a later date, Miss H can ask NatWest to reconsider her fraud claim again.

### **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 Miss H to accept or reject my decision before 4 March 2026.

Emly Hanley Hayes  
**Ombudsman**