

complaint

Mr G complains that National Westminster Bank Plc will not pay him the money he lost when he was the victim of fraud and that it closed his bank account.

background

Mr G says he did not pay a cheque for £1,840 into his account in March 2015. He disputes making subsequent withdrawals on 28 March 2015 using his account card. Mr G said that he had lost his card and £259.44 of his own money. The cheque was unpaid and this left an overdrawn balance of £1,793.89 on his account. NatWest decided to close his account on 6 August 2015. It then accepted that as Mr G was 16 when the withdrawals were made he would not be held liable for the overdrawn balance. It paid Mr G £200 in compensation for a delay in dealing with this part of his complaint. And it has confirmed that none of what happened will be reported to credit reference agencies and affect his credit record.

The adjudicator did not recommend that NatWest do anymore. She said that:

- Mr G was not clear when he had lost his card but he had not reported this until 1 April 2015: the day he also told NatWest about the disputed payments.
- The last time he said he used his card and PIN was on 15 March 2015. All the subsequent payments were made using the genuine card and PIN.
- It was unlikely a fraudster would have waited a number of days before attempting to deposit the cheque and use the card and PIN especially as this would risk Mr G realising he did not have the card.
- CCTV images of the withdrawals would not help to resolve whether the person using the card was authorised to do so.
- It was common to allow withdrawals against a cheque even though there was still the possibility it could be returned unpaid.
- NatWest had shown that Mr G logged into online and mobile banking and had checked his balance before the funds were withdrawn and had an opportunity to alert NatWest to what was happening. Although Mr G had suggested that his online banking had been blocked it was not clear how an unknown third party had been able to access it with his security details and phone.
- It was not unreasonable for NatWest to close his account and it did not have to give him notice.

Mr G, who is represented in this complaint, did not agree. His representative said that he would have reported his card lost in the week beginning 15 March 2015. He had no knowledge of what was going on. NatWest owed him a duty of care and there was still no complete resolution to his complaint now.

my findings

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

Mr G had personal money in his account before the cheque was deposited and says this was withdrawn by the fraudster. And there was a credit to his account on 15 April 2015 of £40 which was offset against the overdraft caused by the unpaid cheque. So while he is not being held liable for the overdraft by NatWest he says he has still lost £259.44.

The adjudicator has set out the main issues in this complaint. I won't be able to say exactly what happened here. But I will consider whether NatWest has acted reasonably. To find that Mr G did not authorise any of the payments I'd need to think that all of the following are the most likely:

- Somehow an unknown third party was able to obtain both Mr G's card and his PIN even though he had not written his PIN down anywhere or disclosed it to anyone.
- Assuming his PIN was seen when he last used his card on 15 March 2015 there was a reason why a fraud was not attempted earlier and especially as Mr G received cleared funds to his account from a legitimate source on 25 March 2015.
- Somehow the fraudster was able to get access to Mr G's online and mobile banking and view his account almost daily from 25 March 2015 to 1 April 2015. And that's taking into account that on 25 March 2015 Mr G made a transfer between his accounts which according to his bank statement was made 'online'.

I'm afraid that these are not all findings I am able to make on the evidence. I'm not going to be asking NatWest to make any refund to Mr G. It's accepted that it should have told him earlier on that it would be writing the overdraft off as he is a minor. It's paid him what I consider sufficient compensation for this and for delays in dealing with his complaint. And given my findings about the payments I don't think NatWest had to give him prior notice of the closure of the account. So I won't be asking NatWest to take any further action.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 5 December 2016.

Michael Crewe
ombudsman