

## **complaint**

Mr F's complaint is that National Westminster Bank Plc ("Natwest") won't refund him for disputed transactions on his account.

## **background**

Mr F is represented in this complaint by Mrs F, but for ease of reference I'll only refer to Mr F throughout.

In 2016 Mr F became aware that his daughter, Miss F, had been using his account to pay for online gambling. He explained that she has a gambling addiction, in addition to problems with drugs and alcohol.

When he realised the extent of her spending, he contacted Natwest to complain. He asked for his money back, because he hadn't authorised the payments to the gambling website ("website"), and wanted to know why Natwest hadn't noticed the suspicious spending on his account, and taken steps to protect it.

Mr F contacted the gambling website to whom payments had been made from his account. And he believed from an email response it gave that it was willing to refund his money if Natwest contacted it to say the payments had been made fraudulently.

Natwest did contact the website, but as Mr F wasn't willing to allow his daughter to be prosecuted for the fraud, Natwest said it couldn't accept it as fraud and issue a refund. Then, because of information given to Natwest by Mr F's other daughter, that the website was willing to give Mr F his refund, Natwest closed its case.

Mr F was unhappy with this, so he brought his complaint to this service. He said he didn't think he'd been treated fairly. He said he hadn't authorised the transactions, and had never revealed his PIN number to anyone. He couldn't understand why Natwest hadn't alerted him to a large number of payments being made from his account to the gambling website in a short space of time. And he also said that Natwest had told him during a previous similar incident in 2015 that it would place a block on his account to specifically prevent any further money being spent on gambling.

Our adjudicator looking at all the evidence, and concluded that while this was a very unfortunate set of circumstances, she couldn't ask Natwest to give Mr F the refund he wanted.

She explained that this was because she couldn't say that the payments had been made without Mr F's knowledge or authority.

Mr F didn't agree. He maintained that his daughter overheard him give his card number during a phonecall, and on one occasion had taken and replaced his card while at home.

He still believed Natwest had let him down, and should refund him. So he asked for an ombudsman's review.

## **my findings**

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'm afraid my decision's going to be disappointing for Mr F, because I agree with our adjudicator that it wouldn't be fair for me to ask Natwest to refund the money he's lost.

I say this with genuine sympathy for Mr F, and his family. It's clear that circumstances have been extremely difficult for all concerned in recent years, and I very much hope his daughter receives all the help she needs to recover.

That said, my role is to make a fair decision, and that means one that's fair to both parties. Asking a bank to refund fraudulently spent money has a knock-on effect on other parties. The money has to come from somewhere, so it's not an easy decision to reach.

In this case, it seems that Natwest has explained its position, which is that without Mr F agreeing to allow Miss F to be prosecuted for the fraud, it can't refund him. And Mr F, for entirely understandable reasons, can't agree to this.

I don't think Natwest's position here's unreasonable. It needs to be able to attempt recovery of the money so it's not out of pocket itself if it has to refund it.

In relation to Mr F's criticism of Natwest, that it failed to spot the suspicious payments from his account, and therefore should take responsibility for them, I don't agree. As previously explained, Natwest doesn't look at individual transactions. It will have its own fraud detection system in place, which will look for certain factors and patterns at any given time. Even in the event of a large number of payments in a short time to an online gambling site, this isn't something I'd say Natwest should have noticed.

Turning to the account block (for online gambling) that Mr F says Natwest agreed it would place on his account after a similar incident with Miss F in 2015- I'm afraid I'm not convinced that this happened. It's not possible for a bank to block all payments to a certain type of merchant, without compromising what could be legitimate payments to other parties. Natwest's said it couldn't, and didn't, agree to do this, and I believe that.

Finally, I have to consider whether Mr F himself could have taken steps to protect his account, but failed to do so. And I'm afraid I think that's what happened.

We know that during the period 2013-16 he received eleven new bank cards – seven of which were used to fund online gambling, and six of which were also used for legitimate day-to-day spending. He says these were always either on his person, or locked away in a family safe. On this basis, I can't see how Miss F was able to get the details she needed from each of them to continue her gambling.

I should also say that given a similar series of events occurred in previous years, it's not unreasonable to expect Mr F to be extra-vigilant after that to avoid it happening again. But he doesn't appear to have taken any extra steps.

Overall, I'm afraid given all the circumstances it wouldn't be fair for me to ask Natwest to refund Mr F.

**my final decision**

My final decision is that I won't be asking National Westminster Bank Plc to take any further action to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 18 August 2017.

Ashley L B More  
**ombudsman**