

The complaint

Mr L complains about National Westminster Bank Plc (NatWest).

He says that he has been the victim of a scam and would like NatWest to refund him the money he has lost as it failed to protect him.

What happened

Mr L says that he became the victim of a scam in 2021 – he was contacted by the scammer via the social media platform ‘Telegram’ and persuaded to start investing in cryptocurrency.

Between October 2021 and January 2022, Mr L made payments totalling £24,463.44, which he says has been lost to the scammer.

Mr L complained to NatWest in July 2023 via a third-party representative and said that NatWest failed to protect him from the scam, and that it should have intervened in the payments he was making.

NatWest didn’t uphold his complaint.

Unhappy, Mr L brought his complaint to this Service. Our Investigator looked into things but didn’t think that the complaint should be upheld. They said that there wasn’t enough evidence to say that Mr L had been the victim of a scam – and that even if Mr L *had* been scammed, they didn’t think that NatWest could have prevented the loss Mr L says that he has suffered.

Mr L didn’t agree and asked for the complaint to be reviewed by an Ombudsman – so the complaint has been passed to me to make a 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.

Having done so, I’ve decided not to uphold this complaint, for broadly the same reasons as our Investigator. I know this will be disappointing for Mr L, so I’ll explain why.

Firstly, like our Investigator, I don’t think that Mr L has provided enough information to show that he has been the victim of a scam – he hasn’t been able to provide any communication between himself and the scammer, or evidence the loss from his crypto wallets.

I can also see from Mr L’s bank statements that he has been making payments to crypto exchanges, and receiving credits, since at least January 2021, despite Mr L saying that he had no prior experience of buying crypto and was a novice. I also note that some of the payments Mr L says are connected to the scam are not made directly to a crypto exchange, but to a money transfer service.

That said, even if Mr L was the victim of a scam – I would still not be upholding this complaint.

While it is in dispute that Mr L may have been the victim of a scam and may have lost money as a result, even when it is clear that a scam has taken place, and an individual has been tricked out of their money, it doesn't necessarily follow that a business will need to refund the money that has been lost.

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 having been good industry practice at the time.

In broad terms, the starting position at law is that banks and other payment service providers (PSP's) are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (PSRs) and the terms and conditions of the customer's account.

Mr L authorised the payments in question here – so even though he says he was tricked into doing so and didn't intend for his money to end up in the hands of a scammer, he is presumed liable in the first instance.

But this isn't the end of the story. As a matter of good industry practice, NatWest should also have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction

Taking into account the above, I consider NatWest should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

In this case, I need to decide whether NatWest acted fairly and reasonably in its dealings with Mr L when he authorised payments from his account or whether it could and should have done more before processing the payments.

Having done so, even if I accepted that Mr L was the victim of a scam, I don't think that NatWest missed an opportunity to prevent him from losing his money.

I say this because looking at Mr L's bank statements in the lead up to when he says the scam took place, I can see that the payments he says were scam payments are not significantly out of character compared to the way he usually ran his account. As I have explained above, Mr L had been making payments to crypto exchanges for several months

before he says that the scam took place, and while the total of the payments Mr L says are as a result of a scam is significant, the individual transactions weren't significantly higher than other payments Mr L was making, and so I can't say that they were sufficiently unusual or suspicious enough for NatWest to have needed to get in touch with him before processing the payments on his request.

So, I don't think it missed an opportunity to prevent the loss that Mr L says he has suffered.

I am very sorry that Mr L says he has lost money – but the losses here are caused by the scammers themselves, not NatWest, and I can't ask NatWest to refund him when I don't think that it has done anything wrong.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 1 August 2024.

Claire Pugh
Ombudsman