

## The complaint

Mr C complains that National Westminster Bank Plc ('NatWest') won't refund the money he's lost as the result of falling victim to scams.

## What happened

Mr C is represented in this case, but as the account is in his name and he made all the transactions, I'll refer to Mr C in this decision.

Between November 2017 and February 2022, Mr C says he lost over £180,000 as the result of scams.

The first scam Mr C says he fell victim to was in November 2017, when he was looking for car insurance. Mr C says he had entered his details in a comparison website and received a call from someone who said they were a broker for an insurance firm. As a result, Mr C made a payment of £1,150 from his account. Mr C never received any insurance documents and it turned out this was a scam.

Shortly after this, Mr C says he met someone on a social media platform who befriended him. Mr C says he sent this individual money in early 2018, although it's unclear exactly how much and which payments are involved. It's also unclear if money was sent as a birthday gift or for expenses that this individual told Mr C about. But Mr C believes that this was also a scam.

In late 2017, early 2018, Mr C was contacted by someone (who I'll refer to as P) who told Mr C he'd won a prize in an international lottery and was eligible to enter into a larger prize draw. Mr C says that he wasn't interested, but P continued calling him almost daily. During these conversations with P, Mr C shared personal information about family members he'd lost.

Mr C says that P expressed sympathy and developed a bond with him, at a time when Mr C was very lonely and still dealing with the grief of his loss. By February 2018, Mr C says he decided to take part in the larger prize draw and was told that he had won £50,000. P convinced Mr C to let him invest the £50,000 prize money, so that he could make even more money.

As part of the scam, Mr C was given a number of documents which he believed were genuine. These included certificates from a number of different banks, including a UK bank, which confirmed that he'd won money, or that money was being held for him. However, in order to obtain the money, Mr C says he was required to pay various fees and costs.

There are a high number of payments that Mr C or his representative say were made as a result of the scams. This includes cash withdrawals made in branch, ATM withdrawals, card payments, international payments and transfers which appear to have been made to accounts Mr C held with other banks. However, I'm only highlighting significant payments, along with dates that NatWest intervened.

<b>Date</b>	<b>Details</b>	<b>Amount</b>
7.11.2017	Payment to S – potentially scam 1	£1,150
5.2.20218	Transfer to account 1	£5,000
2.3.2018	Payment to H – potentially scam 2	£1,500
5.3.2018	Payment to A – potentially scam 3	£2,500
5.3.2018	Payment rejected and recredited to account due to incorrect beneficiary details	£2,500 cr
5.3.2018	Payment to A – potentially scam 3	£2,500
4.4.2018	Payment to A– potentially scam 3	£10,000
	All of the following payments have been raised as being made in relation to scam 3	
5.4.2018	Cash withdrawal in branch	£1,200
5.4.2018	International payment made in branch - intervened	£12,542.50
5.4.2018	International payment made in branch - intervened	£12,542.50
18.4.2018	International payment made in branch - intervened	£50,042.50
27.4.2018	International payment made in branch - intervened	£35,042.50
30.5.2018	Online funds transfer	£2,542
4.7.2018	Cash withdrawal in branch - intervened	£5,000
15.8.2018	Attempted cash withdrawal - blocked Note added to Mr C's account to say he was vulnerable, and a £300 cashline limit was put in place	£56,000
24.4.2019	Transfer to Mr C's account with another bank Note on Mr C's account to say limit was removed to enable payment as funds going to his own account	£5,023
17.6.2019	Transfer to Mr C	£6,000
17.7.2019	Transfer to Mr C	£2,000
23.8.2019	Cash withdrawal in branch	£1,100
2.9.2019	Cash withdrawal in branch	£3,500
2.12.2019	Cash withdrawal in branch	£3,000
3.4.2020	Cash withdrawal in branch	£5,000
29.1.2021	Lasting Power of Attorney (LPA) applied for	

When Mr C made the international payments in April 2018, they were made in branch and the staff asked Mr C about the purpose of the payments. For all four payments, Mr C told NatWest that he was sending money to Pakistan to purchase property. NatWest also asked Mr C four set questions with each payment to try and identify if he may be at risk of a scam. Based on the answers Mr C gave, NatWest didn't identify a scam risk and completed the payments.

When Mr C made the cash withdrawal of £5,000 in branch in July 2018, he was asked about the purpose of the payment and told staff it was to pay builders. Again, NatWest asked Mr C four set questions to try and identify any potential scam risk, and satisfied by Mr C's answers, processed the withdrawal.

In August 2018, Mr C attempted to withdraw £56,000 in branch. At that time a manager intervened and was concerned that Mr C was potentially the victim of a scam, so NatWest invoked the banking protocol and the police attended the branch. NatWest also blocked Mr C's online banking and added a note to Mr C's customer record saying, "please do not encash more than £300 and contact relationship manager as customer is victim of fraud."

Mr C and his daughter attended the branch while the police were present. The police took Mr C aside and talked to him about the withdrawal he was attempting to make. There are no

records as to what was specifically asked by the police, or what the police told Mr C or NatWest. However, the withdrawal wasn't completed.

Following this Mr C made a large number of cash withdrawals and transfers from his account up to early 2022.

In January 2021 Mr C's daughter contacted NatWest and tried to raise a fraud claim (as a third party on Mr C's account), however a fraud claim wasn't raised. At the same time Mr C's daughter applied for, and ultimately was granted, a Lasting Power of Attorney (LPA). On obtaining the LPA, Mr C's daughter requested bank statements from NatWest and highlighted any transactions that she wasn't sure about and included them as part of the fraud claim which a professional representative raised on Mr C's behalf in November 2022.

NatWest investigated Mr C's fraud claim but declined to refund him, providing a number of reasons including:

- While NatWest are a signatory to the Lending Standards Board's Contingent Reimbursement Model Code (the CRM Code), card transactions, cash withdrawals and any push payments made prior to 28 May 2019 are not covered by the CRM Code.
- The cash withdrawals and card payments weren't unusual or out of character for Mr C's account.
- Mr C gave plausible reasons for the international payments he made, saying he was buying property in Pakistan.
- NatWest uncovered the scam when Mr C attempted to withdraw £56,000 and prevented him losing these funds.
- NatWest aren't convinced that all the payments that have been highlighted as part of the scams, were in fact made in relation to a scam.

Mr C wasn't happy with NatWest's response, so his representative brought a complaint to our service.

An investigator looked into Mr C's complaint but didn't recommend that it be upheld. The investigator didn't feel they could say with any certainty which payments were genuine and which may've been made as part of a scam. Also, based on the actions Mr C took in response to NatWest's intervention, including his discussion with the police, the investigator wasn't satisfied that there was anything NatWest could've done to prevent Mr C's loss.

Mr C's representative disagreed with the investigator's opinion saying:

- Mr C was vulnerable at the time he was making these payments.
- NatWest had a duty to protect him as a vulnerable customer.
- Banking protocol should've been invoked sooner.
- Mr C's daughter (having third party access to Mr C's account) tried to raise a fraud claim in January 2021 but was unable to.

As the case couldn't be resolved, Mr C asked for an ombudsman to review it.

### **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.

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.

NatWest are a signatory to the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code) which requires firms to reimburse customers who have been the victims of APP scams like this, in all but a limited number of circumstances. But the CRM Code didn't come into effect until 28 May 2019 and can't be applied retrospectively. So I can't consider any of the payments Mr C made prior to this date under the CRM Code.

From what I've seen, the only payments that Mr C made after 28 May 2019, are cash withdrawals or transfers to accounts in his own name. The CRM Code only covers faster payments, CHAPS payments or internal book transfers where Mr C has transferred the funds to another party. It doesn't cover payments made between Mr C's own accounts. So I'm not satisfied that any of the faster payments, card payments or cash withdrawals that Mr C made after 28 May 2019, which form part of his complaint, are covered by the CRM Code.

Having carefully considered the circumstances in this case, I'm not satisfied that I can fairly ask NatWest to refund Mr C and I'll explain why.

#### *The payments Mr C says he made as part of the first two scams*

It appears that the first five payments Mr C included in the table above, may've related to the first two scams he fell victim to. Having reviewed Mr C's previous account use, I'm not satisfied that these payments should've been concerning for NatWest or warranted intervention.

The transfer of £5,000 was made to an account held in Mr C's name, so I wouldn't have expected NatWest to have identified it as potentially concerning. And, the first two payments to S and H were for a low value, so I wouldn't have expected NatWest to have been concerned about those either. The following three payments made to A (one of which was returned due to incorrect account details), were for higher amounts, but I'm still not satisfied that NatWest should've identified a potential scam risk. I say this because shortly prior to making the largest payment of £10,000, Mr C had made a genuine payment of £6,000 and a cash withdrawal of £3,000. Also, the £2,500 and £10,000 payments made to A were made a month apart, so weren't made in quick succession. Considering all of the information available to NatWest at the time, I don't think any of these payments were sufficiently out of character or unusual that NatWest should've intervened.

It's important to note that even if the payments to A are part of scam three (not scam one or two), it wouldn't make a difference and I'll explain why below.

#### *The cash withdrawals and card payments Mr C made as part of the third scam*

Mr C has been unable to provide us with any evidence to confirm which payments he made as part of the scam, and I can see that the majority of the payments raised as part of the fraud claim are cash withdrawals or card payments.

Prior to 2017, I can see that Mr C regularly made cash withdrawals from his account, for example, 19 September 2016 £1,000 and 30 December 2016 £3,000. Although I accept that he often made smaller cash withdrawals than this, and the frequency and size of the cash withdrawals increased in 2018, 2019 and 2020.

We've also been told that Mr C remarried in 2018, with that relationship ending in 2021. This third party wasn't added to Mr C's account, and we've been told they didn't have any financial links with Mr C. However, as we don't have any testimony or information from that third party, I'm unable to ascertain whether any of these payments related to the time Mr C was with this person and were genuine payments.

Based on the evidence, I can't safely conclude which of these payments is a genuine transaction and which may've related to a scam. Without knowing which payments Mr C had the benefit of and which were genuine, I can't fairly ask NatWest to refund Mr C for these payments.

### *The international payments that Mr C made*

Mr C made four international payments in April 2018.

On 5 April 2018, he made two payments of £12,500 (plus charges). NatWest intervened on these payments and asked Mr C the purpose of the payments, and he said it was to buy a house in Pakistan. NatWest also asked Mr C the following questions – and I've included Mr C's answers.

Have you been contacted by anyone claiming to be from the bank's fraud team or the police asking you to make this payment withdrawal to protect your bank account from fraud. The bank or the police would never contact you and ask you to transfer money to another account – no

Have you been approached or cold called and told you needed work required to your property and these funds are for them – no

- Is this transaction as a result of a request for funds from someone you have not actually met face to face. Scammers will befriend you and state they need funds urgently or will pressure you to transfer funds for an investment opportunity a competition win or to secure an inheritance windfall – no

Mr C made a further payment on 18 April 2018, this time for £50,000 and Mr C was asked the same questions and gave the same answers.

Mr C made the final payment on 27 April 2018, this time for £35,000 and Mr C was asked the same questions and again gave the same answers.

Mr C says that these payments were made as part of the third scam he fell victim to. But, the only evidence Mr C can provide in relation to that scam are certificates which suggest he's won money, with no amount specified, or documents which suggest funds are being released to a UK bank. There is no evidence to support what payments Mr C was asked to make as part of the scam, how he obtained the account details to make any payments or what transpired between Mr C and the scammer.

As with the cash withdrawals and the funds transfers, it's possible that these payments may've been genuine. I appreciate they're very large payments and that Mr C's daughter doesn't know what they were for and that she wasn't aware that Mr C was making them, but that doesn't necessarily mean that they weren't genuine or that there's sufficient evidence to conclude they were made as part of a scam.

I understand that Mr C finds talking about what happened very distressing and his daughter has told us that Mr C has difficulty in remembering what happened, however I can only base

my decision on the evidence we have. And, due to the limited amount of information, I'm unable to safely conclude that these payments were made as part of a scam. On that basis, I'm not satisfied that I can fairly ask NatWest to refund them to Mr C.

*Would prior or better intervention by NatWest have made a difference?*

There is an obligation on NatWest to be on the lookout for, and to protect its customers from, potentially falling victim to fraud or scams. This includes monitoring accounts and identifying suspicious activity that appears out of character. In situations where potential fraud is identified, I would expect NatWest to intervene and attempt to prevent losses for the customer.

Based on the size of the international payments, I would've expected NatWest to have intervened – which they did. As part of that I would've expected them to ask Mr C open probing questions to identify if he was potentially the victim of a scam. In this case, I'm not satisfied that NatWest asked sufficiently open or probing questions. However, it's unclear what evidence or information Mr C would've had if NatWest has asked further questions or asked for evidence relating to the payment purpose.

It's possible that Mr C may've had some evidence that he could provide which would've satisfied NatWest about the payment purpose or that the information he gave in relation to their questions may've satisfied them that he wasn't the victim of a scam. Unfortunately, it's difficult in this case, where we don't know which payments are genuine and which aren't, to safely conclude that intervention would've made a difference. Especially when a large number of the transactions being disputed do appear to be genuine.

Also, it's important to note, that despite NatWest and the police talking to Mr C in August 2018, he continued making payments to the scammer for a number of years. Mr C's daughter says Mr C unplugged his landline to conceal what he was doing and took out new phone contracts to hide the calls he was making to the scammer. And, when she took his phone away, he would often find ways of getting his phone back to continue communicating with the scammer.

Even after Mr C's daughter had an LPA, she says that Mr C was very secretive and would leave the house without her knowing so he could talk to the scammer or make further payments. So, it's possible with Mr C being so invested in making the payments that he would've provided satisfactory evidence or explanations in relation to NatWest asking more questions.

So, I can't safely say that even if NatWest had invoked the banking protocol earlier, in say April 2018, that it's more likely than not to have resulted in a different outcome than when they invoked it six months later. If Mr C's daughter and the police couldn't persuade Mr C that he was the victim of a scam, I'm not satisfied that anything NatWest could've done would've made a difference. Especially taking into account the lengths Mr C went to in order to continue making payments behind his daughter's back for a number of years.

I note that NatWest increased Mr C's cashline limit in August 2019, despite clear records saying that it shouldn't be changed from £300. However, as I can't safely say that the cash withdrawals Mr C made after this weren't genuine – I can't fairly ask NatWest to refund them. I'm really sorry to disappoint Mr C, but I can't safely conclude which transactions were genuine and which were made as part of the scams. On that basis, I'm not satisfied that I can fairly hold NatWest liable for Mr C's loss or ask them to refund Mr C.

**My final decision**

My final decision is that I don't uphold this complaint against National Westminster Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 10 April 2024.

Lisa Lowe  
**Ombudsman**