

## The complaint

Mrs R complained because National Westminster Bank Plc (NatWest) refused to refund her for transactions she said she didn't authorise.

## What happened

On 15 April 2024, Mrs R contacted NatWest. She said she hadn't authorised two mobile banking payments which had debited her account that day. One was for £249 and the other for £240, both to the same recipient. The same day there was an open banking payment for £250 but that was returned to the account. So the total in dispute was £489.

NatWest's fraud team saw that a new mobile had been added to Mrs R's account on 7 April, and this was what had been used for the disputed transactions on 15 April. But adding this new mobile had been done by a One-Time Passcode (OTP) being sent to Mrs R's previous phone. Mrs R's existing phone had then used the OTP to authorise adding the new mobile. And the new mobile had been used on 9 April for a genuine payment too.

NatWest replaced Mrs R's debit card and PIN, but its fraud team refused to refund Mrs R for the two disputed transactions. She complained, and NatWest issued its final response letter on 3 May. It said that the evidence supported the payments either being made by Mrs R, or by someone with her authority. It said that several factors confirmed the transactions hadn't been fraudulent. It said that one factor was that the pattern of spend didn't fit what the bank would expect with an opportunistic fraudster, but for security details it couldn't divulge what it took into consideration when assessing a fraud claim.

Mrs R wasn't satisfied and contacted this service.

In addition to the two disputed transactions on 15 April, Mrs R mentioned direct debits from her NatWest account. Our investigator explained that this service can only consider a complaint after it's first been raised with the bank, and he couldn't see any evidence that Mrs R had raised the direct debits with NatWest. Mrs R said she'd spoken to NatWest about the direct debits on numerous occasions. But the investigator said that NatWest had confirmed Mrs R hadn't raised a complaint about that, and there was no final response letter. So we couldn't consider direct debits, only the two disputed payments totalling £489 on 15 April.

Our investigator didn't uphold Mrs R's complaint about the two disputed payments on 15 April. He noted that:

- Mrs R had said she'd had the make and model of phone used for the disputed transactions, but had sold it around that time. She hadn't been able to provide any evidence that she'd sold it, or when. Mrs R had said there weren't any apps or banking information on the phone, so the investigator thought it wouldn't have been possible for any third party to access Mrs R's account that way;
- The phone used to make the disputed transactions had been registered to Mrs R's account on 7 April, using a OTP sent to Mrs R's existing registered phone. So Mrs R must have authorised the addition of the extra phone;

- The investigator also pointed out that if any fraudulent third party unknown to Mrs R had been able to access the account to add the new phone on 7 April, it wasn't likely they'd have waited until 15 April before taking money;
- The IP address (a unique computer identifier) used for the disputed transactions was in a different part of the country, and was one which hadn't been used for genuine transactions before. But the investigator said this alone wasn't enough to uphold the complaint, especially in view of the other evidence.

Mrs R didn't agree and asked for an ombudsman's 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.

I'll first set out what this decision does and doesn't cover. This service is governed by rules set out by the regulator, the Financial Conduct Authority (FCA). One of those rules says that we can only consider an issue about which the consumer has previously complained to the financial organisation, giving it a chance to respond. Usually there is a final response, like the one I've mentioned above which NatWest sent to Mrs R about the two 15 April disputed transactions. Mrs R hasn't been able to provide us with a final response letter, or any other letters acknowledging a complaint, about any direct debit or other issues with NatWest. Nor does the evidence from NatWest show a complaint about anything other than the 15 April disputed transactions. So the only matter I can consider in this decision is the two 15 April disputed transactions.

There are regulations which govern disputed transactions. The relevant regulations here are the Payment Services Regulations 2017. In general terms, the bank is liable if the customer didn't authorise the payments, and the customer is liable if they did authorise them. The regulations also say that account holders can still be liable for unauthorised payments under certain circumstances – for example if they've failed to keep their details secure to such an extent that it can be termed "*gross negligence*." So what determines the outcome here is whether it's more likely than not that Mrs R, or a fraudster unknown to her, authorised the payments herself.

Mrs R said that she didn't authorise the two payments. And the IP address where they were carried out was indeed in a different part of the country, and not one that Mrs R had used before. However, I also have to look at other evidence about the payments.

The payments on 15 April were carried out on a phone which had been added to Mrs R's account on 7 April. This was done by a OTP being sent to Mrs R's existing registered phone, and the code it contained being correctly entered, in order to add the new phone to her account. And an undisputed payment was carried out on the new phone on 9 April.

I've listened to the call recording from when Mrs R first contacted NatWest about the disputed payments. She said in that call that the undisputed 9 April payment was genuine, and a relative had told her it was because they'd needed to get their car fixed. The NatWest call handler asked if this relative could have made the payments on 15 April, but Mrs R said no. She then said that the additional phone was one which she'd now sold. She said the 9 April payment had been genuine, but not the 15 April ones.

When Mrs R approached our service, she said she'd sold the phone – but she wasn't able to provide us with any evidence to show the sale, or the date when she'd sold it.

I'm not persuaded that Mrs R sold the phone and that that was how the 15 April payments were fraudulently made. As well as not being able to evidence the sale, Mrs R also told us that she hadn't downloaded any apps and there was no banking information stored on that phone. So it's not possible that any third party fraudster who might theoretically have bought the phone could have carried out the disputed transactions that way,

Taking all these factors into account, I think the only two options which fit the facts are that Mrs R carried out the disputed 15 April transactions herself, or that she gave someone else access to her security information, which counts as her authorising the transactions. I can't know for sure, but an obvious possibility is the relative to whom Mrs R gave access for the undisputed payment on the new phone on 9 April. But whichever of these options is correct, liability for the transaction is with Mrs R. So NatWest doesn't have to refund her.

### **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 Mrs R to accept or reject my decision before 13 January 2025.

Belinda Knight  
**Ombudsman**