

The complaint

Miss W complains that PayrNet Limited won't refund payments she made that were part of a scam.

ANNA Money, who Miss W's account is with, is an agent for PayrNet. For ease, I'll mainly refer to ANNA throughout the decision.

What happened

Miss W held a business account with ANNA as a sole trader, which she opened in 2019.

In early 2022 Miss W was introduced to someone who said they were a mortgage broker when he was recommended to her by a friend. Miss W met with the mortgage broker on two occasions and says she received a decision in principle for a mortgage. She and her partner identified a property they wished to buy and they made an offer.

Miss W received invoices from the broker, and made payments to the broker's limited company over a two-month period, as follows:

Date	Type of payment	Amount
23/02/2022	Faster payment	£900
23/02/2022	Faster payment	£2,670
4/3/2022	Faster payment	£11,429
5/3/2022	Faster payment	£1,634.62
13/3/2022	Faster payment	£1,634.62
26/4/2022	Faster payment	£2,310

Miss W maintained a relationship with the broker until November 2022, but around this time Miss W's friend told her he was having problems with the broker. Miss W asked the broker for her money back as she no longer wished to proceed, and he became abusive. Miss W then did some research into the broker's name online, and found some news reports to suggest that he had previously been featured in the news as being involved in multiple scams, and he'd been prosecuted for some of these.

In April 2023 Miss W contacted ANNA to report the scam. ANNA attempted to recover the payments she'd made, but there were no funds remaining in the receiving account to recover.

Miss W complained to ANNA, and they replied to say they didn't think they'd done anything wrong. Miss W brought her complaint to our service, where it was looked into by an investigator. The investigator didn't uphold Miss W's complaint. She didn't think the transactions Miss W made to the 'broker' were out of character, such that ANNA should have intervened to warn Miss W about the scam.

Miss W's representative didn't agree. They said that the payments were out of character for the account, and ANNA should have intervened on the third payment of £11,429. They thought that if ANNA had intervened, they would have identified the scam, because Miss W would have been honest about who she was making the payment to, and the broker was a well-known scammer.

Miss W's complaint was passed to me for review and a decision.

I issued my provisional decision on 7 August 2024. This is what I said.

I'm sorry to learn about what happened to Miss W. ANNA don't appear to be disputing that she's been the victim of scam, and I can understand why Miss W would think her money should be refunded. But I don't think that I can fairly say that ANNA should refund the money she lost. I'll explain why.

It's not in dispute that Miss W authorised the payments. And ANNA have a duty to act on her instructions. But in some circumstances, and in line with good industry practice, ANNA should take a closer look at the circumstances of the payments – for example, if they ought to be alert to a fraud risk, because the transaction is unusual for the customer, or otherwise looks characteristic of fraud. And if so, they should intervene, for example, by contacting the customer directly, before releasing the payments. But I'd expect any intervention to be proportionate to the circumstances of the payment.

This was an established business account which Miss W had been using for day-to-day business purposes for over two years before the scam payments were made. Over that time, reasonably high-value payments were made to various companies and individuals by faster payment, and on a regular basis.

The first two payments were made on the same day, but they weren't of a value where I think ANNA should have been suspicious or concerned about a heightened risk of financial harm.

I can see that the third payment to the broker, of £11,429, was higher in value than most of the payments that were routinely made from the account. But a card payment of £12,995 had been made from the account just a few weeks earlier. So, I don't think that a payment of £11,429 was so unusual or outside of the expected running of the account that its value warranted an intervention from ANNA.

I'm also taking into account that the pattern of payments didn't look typical of a scam. Although the first two payments were on the same day, the rest of the payments were spread over a two-month period, and they didn't escalate in value or frequency in the way that could be a warning sign that a scam might be taking place.

ANNA are able to take into account a range of factors when deciding whether to make further enquiries of Miss W about the payments. And looking at the overall circumstances of the payments here, I don't think ANNA were unreasonable not to intervene.

But I should add that even if ANNA had contacted Miss W and asked some questions about the payments as her representative has suggested, I don't think this would have made a difference to her decision to proceed with the payments.

I say this because at the time of the payments, Miss W believed that the broker was genuine, and was helping her to obtain a mortgage. I've not seen anything to show that she doubted the legitimacy of the broker at that time. So, it's likely she would simply have explained to ANNA that she was making payments to a mortgage broker who was doing some work for her – and that she'd met the broker, he'd been recommended by a friend, and he'd given her a decision in principle. All of this would have been reassuring to ANNA and wouldn't have raised any concerns that a scam was taking place.

Miss W's representative has said that the scam would have been uncovered if ANNA had spoken to Miss W, as she would have been honest about who she was making the payments to. I don't doubt that Miss W would have been honest. But I can't see any reason why ANNA would have asked Miss W for the broker's name in this scenario or even if they had known his name, that they should have been aware of his connection to previous scams.

So, I don't think I can fairly say that ANNA should have been in a position able to give Miss W any information that would have led her to do anything differently at that time. I think even if ANNA had intervened, Miss W would have told them to proceed with the payments. And I don't think ANNA would have had any reasonable grounds to do otherwise.

Once Miss W told ANNA she suspected she had been the victim of fraud, I would have expected them to attempt to recover her money immediately.

Miss W contacted ANNA on 27 April 2023 to report the scam. I can see they contacted the beneficiary bank the next day to try to recover the funds, but the beneficiary bank replied to say there were no funds available to recover. While ANNA could perhaps have contacted the beneficiary bank a little more promptly, given that it had been over a year since the final scam payment had been made, I don't think this made any difference to the outcome of the recovery. It's likely the funds were removed from the receiving account far in advance of the scam being reported.

I agree with the investigator that ANNA don't need to pay Miss W any compensation for distress and inconvenience, because I don't think they've treated her unfairly here.

I'm very sorry to disappoint Miss W. However, for the reasons I've explained, I don't think ANNA should have done more to prevent her loss. So, it wouldn't be reasonable for me to ask them to refund the payments she made.

ANNA didn't reply to my provisional decision. Miss W's representative replied to say they disagreed. They said, in summary:

- they do not believe that one previous high-value payment should set a precedent of usual account activity;
- they believe that for this and Miss W's £11,429 payment, ANNA should have provided greater intervention, as this was a payment to a relatively new payee in a short space of time which constitutes suspicious activity; and
- they believe that if ANNA intervened on this transaction and robustly questioned Miss W on the nature of this payment, the scam would have been uncovered.

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've considered what Miss W's representatives have said in response to my provisional decision. I should explain that in deciding whether ANNA should have intervened in the third payment to the scam, the previous high value card payment isn't all that I've considered – I've also considered the overall circumstances of the purpose and history of the account and the pattern of the scam payments. And I still don't think ANNA were unreasonable not to intervene, as I've explained.

I've also explained in my provisional decision why I don't think an intervention from ANNA would have prevented the scam, even if one had taken place.

Overall, I see no reason to depart from my provisional decision. I'm sorry to disappoint Miss W, but I don't think ANNA could have done any more to prevent Miss W's loss.

My final decision

My final decision is that I'm not upholding Miss W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 4 October 2024.

Helen Sutcliffe
Ombudsman