

Ombudsman Decision**CIFO Reference Number: 24-000442****Complainant: Mrs P****Respondent: NatWest International Limited (“NatWest”)****Complaint**

Mrs P’s complaint is, in summary, that NatWest failed to protect her when she was the victim of an investment scam. She has had legal representation in bringing this complaint, so any reference to her arguments and submissions includes those made on her behalf.

Background

Mrs P has explained that she replied to a notification on Facebook, promoting investments in crypto-currency. She was then contacted by an adviser, “A”, who opened a trading account on her behalf and advised her on trades and other matters. Between April and July 2023 Mrs P made a number of payments to fund crypto investments, both from her NatWest accounts and through an account she opened with Revolut, a UK-based payment service provider – which she in turn funded from her NatWest accounts. Whilst Mrs P did receive some investment returns, she says she has lost more than £77,000.

Mrs P says she realised towards the end of July 2023 that it was likely she had been the victim of a scam. She was unable to withdraw funds, and A stopped communicating with her. She contacted NatWest in January 2024 and, although it made a recall request to the bank to which funds had been paid, it was unable to recover anything. The bank did not accept that it had any liability for Mrs P’s losses.

Mrs P made a separate complaint to the UK Financial Ombudsman Service about Revolut, but it was not upheld.

Mrs P referred her complaint about NatWest to this service. I considered what had happened and issued a preliminary assessment of it, which I sent to Mrs P and to the bank. I indicated that I did not believe it would be fair to uphold the complaint. In summary, I said:

- I accepted that the “investment” which Mrs P had taken out was not genuine.

¹ Financial Services Ombudsman (Jersey) Law 2014 Article 16(11) and Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 Section 16(10)

- The payments which Mrs P had made were, however, genuine – in the sense that she had given valid instructions to NatWest to make them and it had followed those instructions.
- Generally, a bank should follow valid payment instructions given by its customers.
- NatWest had raised questions about the payments, and I did not consider that it was required to do more than it did.
- NatWest had acted promptly when Mrs P had told it about the fraud, but it was unable to recover any funds.

Mrs P did not accept my initial assessment of her complaint. She said that it was not enough that NatWest had suggested the investment might be fraudulent. It should have known that the payments from her account were out of character and it should have stepped in to stop them.

As Mrs P did not accept my assessment, I have reviewed the case afresh before issuing this final decision.

My Findings

I have considered all the relevant circumstances in order to decide what I consider to be fair and reasonable in all the circumstances.

General principles

My starting point in cases of this nature is that a bank should generally follow its customer's instructions to make a payment. The contractual position was set out in a judgment of the UK Supreme Court (*Phillip v Barclays Bank Plc* [2023] UKSC 25) in the following terms:

"It is a basic duty of a bank under its contract with a customer who has a current account in credit to make payments from the account in compliance with the customer's instructions. This duty is strict. Where the customer has authorised and instructed the bank to make a payment, the bank must carry out the instruction promptly. It is not for the bank to concern itself with the wisdom or risks of its customer's payment decisions."

There is no dispute in this case that Mrs P authorised the payments from her account. This was not a case where someone else had managed to gain access to it or was pretending to be her.

For many years, however, the UK Financial Ombudsman Service (FOS) has considered whether, in any particular case, a bank or other provider should nevertheless intervene to stop or query transactions which their customer has authorised. Like CIFO, FOS is required to take into account good industry practice in deciding what's fair and reasonable. And it may be good practice to intervene where, for example, the bank is aware of features of a transaction (or a series of transactions) which indicate that a customer may have been targeted by fraudsters.

I have therefore considered these questions:

1. Given what it actually knew about the transfers, should the bank have raised with Mrs P the possibility that the investment was not genuine?
2. Was there anything about the nature of the transfers which ought to have led the bank to ask further questions of Mrs P before completing them?
3. If NatWest had acted differently before completing the transfers, would Mrs P's losses have been avoided or reduced?

In some cases, a bank might know more about some aspects of a transaction than its customer does. For example, it might have received information about fraudulent activity on a receiving account. That was not the case here, however. NatWest knew no more about the payments than Mrs P did. In reality, it knew very much less. It knew the identity of the recipients, but it had no information at all about the circumstances in which Mrs P had decided to invest or the individuals involved.

Where payments were being made to Mrs P's account with Revolut, the bank did not know that Mrs P might then transfer funds to a crypto-currency investment. I don't believe therefore that NatWest had any specific knowledge about the payments which meant it should have intervened.

I have therefore considered the second point – namely, whether the bank should have done more before completing the transactions. There is no doubt that the payments were out of character; some were for significantly more than was usual for Mrs P. In addition, the account had been little used in the months before the events giving rise to this complaint and had not been used to fund investments.

But this was not a case where the bank did nothing at all. In June 2023 it blocked Mrs P's accounts, preventing payments from being made. Transactions were referred to its fraud department. And Mrs P has said herself that the bank told her that the investment might be a scam. She believes however that the bank should have gone further than it did, by providing more advice about scams and by drawing her attention to the characteristics of scam payments.

I am afraid I don't agree about that. That in my view goes very much further than I would usually expect of a bank making checks to ensure that a payment has been properly authorised and has not been induced by fraud. It also goes beyond what I would expect a bank to do as a matter of good practice.

In this case I think it was sufficient for NatWest to flag the possibility that the investment might be a scam. It could not know for sure whether that was in fact the case, but its warning should have prompted Mrs P – who knew how she had come to invest – to consider the wisdom of what she was doing. In my view, she must have been aware from the fact that NatWest blocked her accounts and referred her to its fraud department that it thought there was a real risk – and not just a possibility – that the investment was a scam.

Even if the bank had been more explicit in its warnings, or if it acted sooner than it did, I do not believe it would have made any difference to the outcome here. I have seen some of Mrs P's exchanges with A, from which it is clear that she was determined to continue with the investment. She said that her husband was opposed to it, but that she

wanted to go ahead. And I believe there are clear indications that she believed the bank should not be querying what she was doing with her money. (That is of course incorrect; as I have indicated, banks have certain obligations to prevent customers from committing fraud and to protect them from becoming victims of fraud or scams.) A also commented that Mrs P would know what to say to NatWest to have the account blocks lifted. In my view, that indicates that she might not have provided the bank with complete information about the payments or the investment.

Mrs P was confident that the investment was genuine. I believe she sought to persuade the bank of that as well, and I believe she would have continued to do so in order to make further payments.

It was not until January 2024 that Mrs P contacted NatWest to say that she had been a victim of a scam. I am satisfied that the bank then acted promptly to try to recover what funds it could. By that point, however, there were no funds remaining in the payee's account, and so no recovery was possible.

Final decision

For these reasons, my final decision is that I do not uphold Mrs P's complaint.

Mike Ingram
Ombudsman

Date: 11 February 2025