

The complaint

Ms K is unhappy that Nationwide Building Society hasn't refunded her after she was the victim of an investment scam.

What happened

Ms K described the events in detail to Nationwide and our service. I will summarise them below:

- She was originally contacted via social media and a dating app.
- She didn't speak to the person on the phone, only over text messages. He said he was too busy to speak on the phone, but they would text each other every morning.
- After a few weeks he talked about an investment he was making money from and encouraged her to invest as well and said that she would make big returns. Ms K says she was skeptical at first, but he kept reassuring her.
- He shared his log-in information for an investment platform. She could view the investments he'd made and the profits he was making. And she decided to invest.
- When asked by Nationwide Ms K said she didn't review the company she thought she was dealing with and didn't carry out any checks. But when investigating the complaint Ms K told our investigator that she had looked up the crypto company's website and it looked legitimate. She said she was presented with a fake investment platform and it used the logo of a real company.
- Ms K said her first attempt to withdraw funds was after the first day of trading and was successful. Ms K said after that she wasn't able to withdraw funds until the "end of the investment period". During the "investment period", she was influenced and persuaded to take promotions to gain various bonuses (for example she was told these would increase her funds by 10%). Each time she agreed to a new promotion she had to invest more money to obtain the bonus.
- She opened her own crypto wallet accounts and bought currency. Then from those accounts she would send the money on as she was directed to (the funds then went to the scammers).
- She took out a loan and used that to keep investing. At the time of taking out the loan she was told not to say what it was for, as the bank wouldn't allow a loan for investment purposes. She said the loan was for home improvements.
- Ms K realised she had been scammed when the investment period ended, and she tried to take out her funds, but was unable to. At this point she was told she had to pay various fees and fines which she couldn't afford and was then locked out of the platform and could no longer reach her contacts.

Ms K contacted Nationwide to say she'd been scammed. Nationwide didn't uphold Ms K's complaint. It said it provided an online warning message at the time she made the payments, which highlighted the risks of scams to Ms K. Nationwide also said it contacted and spoke to Ms K. She was questioned about the loan and advised that there had been an increase in

crypto fraud and that she should proceed with caution. It said despite this Ms K decided to go ahead with payments.

Nationwide has provided the call with Ms K, in summary, the following was discussed:

Ms K calls about payments being blocked on her account.

The bank adviser says there are several payments to B (which is a crypto wallet provider) over the last couple of days. He asks if she's doing lots of crypto currency investments? She says yes.

The bank adviser says – that's very high risk and we are seeing a lot of fraud with it at the moment. He also says he can see she has a loan and asks if that was used that for the crypto as well. Ms K says no, no, no that was for house and buildings improvements.

The bank adviser says again –is she happy that this is all genuine as they are seeing a lot fraud and scams related to crypto currency.

The bank adviser asks if she can see an online wallet that she can see the money in. Ms K says yes.

The bank adviser asks if she was told invest off the back of any cold calls or anything like that. Or has someone else told her to invest or recommended that she do it. Ms K says no.

The bank adviser says as long as she appreciates the risks around doing this as she can lose money quite quickly with crypto currency.

The bank adviser asks how she got the account details? And he asks if that was through the app and she says yes. Ms K says she tried to send smaller amounts first, then she saw it in the wallet, before sending more.

The bank adviser says sometimes fraudsters convince customers to give them (Nationwide) false information in order to get the payment through as well.

The bank adviser reads out a statement about scams which includes.. if you conceal the true reason for the payments we may not be able to help.

Ms K says yes everything is correct and she agrees with the statement and wants to go ahead with the payments.

Ms K made a total of 31 payments (from her Nationwide account) to various crypto-wallet accounts and crypto currency exchange services. The payments ranged from £50 to £5,000 and took place over a 2-month period.

Nationwide decided not to refund Ms K. It said following the online warning and conversation with the bank adviser Ms K still decided to authorise the payment at her own risk.

One of our investigators looked into things, she concluded that Nationwide was responsible for 50% of Ms K's losses as it didn't do what we would expect in this situation. She said the transactions were suspicious and whilst it did intervene and speak to Ms K it didn't go far enough with its questions. She said if it had considered the loan she had taken out, in the context of the payments she had been making, it should have exposed the scam. The investigator recognised that Ms K had been given a cover story by the scammers but if

probed further she wasn't persuaded that Ms K could have provided any persuasive details that would have reassured Nationwide that what she was saying was genuine.

She also went on to say that Ms K ought to bare responsibility for the remaining 50% of her losses. She felt Ms K was contributory negligent in her actions – considering how the investment opportunity came to light, through social media, and her lack of research or due diligence before deciding to “invest” thousands of pounds.

Ms K didn't accept the investigators findings she said she wouldn't accept anything less than 100% of her losses and was looking for compensation for damages.

Nationwide responded to say it was prepared to accept 50% liability from the date of the first transaction on 26 November - in line with the investigators recommendations.

But as Ms K didn't accept this in settlement of her complaint it has been passed to me to consider.

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 come to the same conclusions as the investigator but for slightly different reasons. But as the overall outcome and recommendation remains the same.

I agree with the investigator that Nationwide ought to have – and did – consider the transactions, Ms K was making, as unusual. And I agree with the investigator the point at which the transactions become unusual. In doing so it intervened with the payments and spoke to Ms K.

During the conversation Ms K wasn't truthful about why she was making the payments. She was asked whether anyone else was involved, she said there wasn't and when asked if anyone was telling her what to do or where to send the money, she said no-one else was telling her what to do. This wasn't the case.

In any event, the second investigator went on to mediate a settlement with Nationwide. It has agreed to refund 50% of Ms K's losses from the third transaction onwards. In light of that offer, I don't need to consider, in detail, whether additional questioning by the bank would have exposed the scam. Even if I decided Nationwide could have exposed the scam, then I would still only be recommending the same refund amount (50% of her losses from the third transaction onwards) to Ms K. This is because I need to consider both Nationwide's and Ms K's actions in determining who bears responsibility for Ms K's losses. Here I think Ms K should also bear responsibility. I'll explain why.

Whilst I can see that elements of the scam would have been convincing, the platform she said she accessed, and the name of the company being cloned/used. And the fact she was using crypto-wallet accounts in her name before sending the funds on would have given some feeling of legitimacy to the investments. But there were other elements about what she was doing and being told, that ought to have caused her to be concerned. For example:

- The platform on which she met the individual is predominantly a dating website/app – and not a place to form the basis of trusted financial advice.
- But she also wasn't able to talk to the person she met over the phone and never met

him in person but trusted everything he told her about the investments and what she actions she needed to take.

- She was told to lie about the reason for the loan, which she believed was reasonable because the bank wouldn't have extended the lending to her otherwise. But this seems like a suspicious and risky thing to do knowing she would be taking finance in her name that needed to be repaid.
- The various "bonus" schemes she was encouraged to invest in are unnecessarily complex and required her to keep depositing further funds.
- And she was promised unrealistically high returns.
- Whilst Ms K has told us she did look at the company website she hasn't said she did any further research than this. So, it seems she decided to invest large amounts of money based on very little research or knowledge of what she was doing.
- So, I agree with the investigator that Ms K doesn't appear to have taken many steps to verify the legitimacy of what she was doing before proceeding to invest.

Having considered all of this, I'm satisfied that Ms K needs to bear a shared responsibility for her losses here.

Ms K also said she was able to withdraw £300 after the first day of trading. I haven't seen any evidence of this from reviewing her two sets of bank account statements. But in any event, even if she were able to withdraw the £300 as she says I think there were enough other unusual elements to what she was doing that she ought to have been concerned that this wasn't a genuine investment opportunity.

Considering all of the factors here, I think the offer from Nationwide to refund 50% of Ms K's losses from third transaction onwards, is fair in the circumstances and I won't be recommending any further refund or further compensation.

Putting things right

Pay the 50% refund it has agreed to pay. Which is 50% of the transaction value from the third transaction onwards.

My final decision

I think the offer from Nationwide is fair in the circumstances, I don't recommend any further refund. Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 9 March 2023.

Sophia Smith
Ombudsman