

## The complaint

Mr C complains Nationwide Building Society didn't do enough to protect him when he fell victim to two separate but similar investment scams.

## What happened

Mr C has a number of accounts with Nationwide and has been a customer of theirs for over 30 years. He opened accounts with two different electronic money institutions during 2022 – who I'll refer to as "W" and "R" throughout the rest of this decision – at the suggestion of people who he now knows were scammers.

Mr C says he came across an advert on a well-known social media platform for an investment opportunity involving cryptocurrency in April 2022. He says the opportunity appeared to be genuine. He says he was contacted by someone who he now knows was a scammer and was told he needed to download software – allowing the scammer to access his computer remotely – and to open up a cryptocurrency wallet so that he could take part in the investment.

Mr C says he made two payments in April 2022 totalling just over £2,000 towards this investment from one of his Nationwide accounts. In fact, the investment opportunity was a scam. I'll refer to this scam as "**Scam One**" throughout the rest of this decision. The company he was dealing with was placed on the FCA's warning list in October 2022. In the meantime, Mr C says his investment appeared to be making a slow but steady return, so he believed it was a success.

Mr C says he subsequently came across another investment opportunity on the same well-known social media platform. So, believing that his other investment was going well, he expressed an interest in this second opportunity and began investing in August 2022. He made sixteen card payments between 23 August 2022 and 5 January 2023 totalling £43,856.35 to the account I've already mentioned that he opened with W from one of his Nationwide accounts. He also made two payments totalling £4,000 from the account he opened with R on 2 December 2022 to a cryptocurrency provider. This second investment opportunity was also a scam. I'll refer to this scam as "**Scam Two**" throughout the rest of this decision. The company he was dealing with had, in fact, been placed on the FCA's warning list in May 2021. Mr C says the scammer said he'd need to make a payment of just over £5,000 in January 2023 when he asked to withdraw some of the profits he believed he'd made. Mr C says he was then told he'd need to pay a second fee of just over £5,000. He said that despite paying both fees he was still unable to make a withdrawal. He subsequently realised that he'd been scammed.

In March 2023 Mr C complained to Nationwide, with the help of a representative, saying that it hadn't done enough to protect him when he'd fallen victim to two separate investment scams. He complained to R too saying that it hadn't done enough to protect him when he'd fallen victim to the second investment scam.

Nationwide looked into Mr C's complaint and agreed to refund the two payments that Mr C had made to Scam One – less credits he'd received. In other words, to refund £2,054.44.

But Nationwide didn't agree to refund the payments that Mr C had made to W in relation to Scam Two saying that the Contingent Reimbursement Model didn't apply to those payments as they were payments to an account in Mr C's name, an account he had control over. Mr C wasn't happy with Nationwide's response, so he complained to us. He complained to us about R's response too. He said that Nationwide had agreed to refund the payments he made to Scam One and in doing so had accepted that it should have intervened because the payments were unusual. He said that had Nationwide done so at the time, he would have fallen victim to Scam Two. In any event, he said that the payments he'd made towards Scam Two were in themselves unusual enough to warrant intervention.

One of our investigators looked into Mr C's complaint about Nationwide not doing enough to protect him when he fell victim to these scams. They thought that Nationwide should have had concerns when Mr C made his third payment to his account with W as that payment meant he'd asked to send almost £7,000 to that account that day. Our investigator thought that this was unusual when compared to Mr C's normal activity. They said that Nationwide would have identified the fact that Mr C was falling for an investment scam had it done so – not least because the company he was dealing with had been on the FCA's warning list for over a year. Our investigator said that Nationwide should refund all of the payments Mr C made from his third payment onwards, with the exception of his sixteenth and final payment. They said Nationwide should refund 50% of that payment as they felt Mr C should have realised something wasn't right when he was asked to make a second large payment to withdraw his profits. Our investigator said that the refund would have to take account of the £5,016 credit from W that Mr C received on 17 December 2022 which hadn't been factored into his claim.

Mr C accepted our investigator's recommendations. Nationwide didn't, saying that it was only after Mr C had transferred the money to his account with W that a loss occurred. In other words, his loss occurred outside Nationwide. In addition, Nationwide didn't agree that Mr C shouldn't share any responsibility until he made his last payment. Nationwide said that if Mr C's complaint was upheld then liability should be split 50/50. Mr C's complaint about Nationwide was referred to an ombudsman for decision and so was his complaint about R.

### **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'm satisfied that Mr C made sixteen card payments between 23 August 2022 and 5 January 2023 totalling £43,856.35 to the account I've already mentioned that he opened with W from one of his Nationwide accounts. And that he received a credit of £5,016 from W on 17 December 2022. I'm also satisfied that the payments he sent to his account with W – with the exception of the credit he received – were all lost to Scam Two. I agree with our investigator that the first two payments weren't sufficiently large or unusual to be of concern to Nationwide, but the third one was as it was sent shortly after the second payment bringing the total Mr C had sent to his account to almost £7,000 that day. I agree too that had Nationwide intervened and asked Mr C about the payment, that it would have discovered he was planning to send money to a company that had been on the FCA's register for over a year as part of an investment that he had come across on social media. In other words, I agree that Nationwide would have identified that Mr C was falling for an investment scam. I've seen nothing to suggest that Mr C would have carried on sending payments had Nationwide done so. For that reason, I agree with our investigator that Nationwide missed an opportunity to prevent Mr C from making further loss here and that it should, therefore, refund the payments he made from the third payment onwards – less the credit he received.

Our investigator recommended that Nationwide only needed to refund 50% of the final

payment of £5,014 that Mr C made because they thought he should share some responsibility given that what the scammers had asked him to do didn't make sense. Mr C's representatives agreed to that, and in this case I don't think it leads to an unfair or unreasonable outcome. Nationwide has said that Mr C should share responsibility for all of the payments to be refunded, in part because he should have done more detailed checks and in part because he could bring a complaint against W too. I can understand why Nationwide thinks that way. However, Mr C hasn't brought a complaint against W, and I can't require him to do so. I also don't agree, given the history of this case, including the fact that Mr C believed Scam One was a successful investment, that it's fair to say he should share liability other than for the final payment.

### **Putting things right**

Based on what I've said, I agree with our investigator that Nationwide should refund all of the payments Mr C made from his third payment onwards, with the exception of his sixteenth and final payment. I agree Nationwide should refund 50% of that final payment. I also agree that Nationwide should pay 8% simple interest on the refunds it makes, from the date of payment to the date of settlement. And that Nationwide should deduct the £5,016 credit from W that Mr C received on 17 December 2022 which hadn't been factored into his claim. That appears to have been W returning the eight payment Mr C made, so Nationwide can if it wishes to do so refund payments three to seven, payments nine to fifteen and 50% of payment sixteen together with interest on these payments should it wish to do so.

### **My final decision**

My final decision is that I'm upholding this complaint and require Nationwide Building Society to refund all of the payments Mr C made from his third payment, with the exception of his sixteenth and final payment. In addition, I require Nationwide Building Society to refund 50% of Mr C's sixteenth and final payment. As I've already mentioned, Nationwide Building Society should deduct the £5,016 credit from W that Mr C received on 17 December 2022 when calculating its refund and can, if it wishes, do so by not refunding payment eight as the credit appears to be that payment being returned. Finally, I require Nationwide Building Society to pay 8% simple interest on the refunds it makes, from the date of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 29 August 2024.

Nicolas Atkinson  
**Ombudsman**