

## The complaint

Mr R complains that Nationwide Building Society won't refund all the money he lost when he was the victim of a scam.

## What happened

In or around 2017, Mr R met a woman on a dating website. They started exchanging messages and their relationship developed to the point where they were communicating most days and Mr R felt they were friends.

Over the course of their relationship, Mr R says the woman asked him for help with an inheritance of gold she was trying to claim. But it was only in 2021 that Mr R agreed to help, as he became worried she was being taken advantage of by the people and companies dealing with the inheritance. Mr R then started making payments to help the woman pay for a number of things, including export and selling licenses, transport for the gold, travel to and from her solicitors and medical bills when the woman became ill.

Some of these payments were sent to a friend of the woman, and some were sent to an account Mr R held with a payment transfer service before being sent on. I've set out the payments made from Mr R's Nationwide account below:

Date	Details	Amount
24 August 2021	to scammer's friend	£10
27 August 2021	to scammer's friend	£630
29 August 2021	to scammer's friend	£180
31 August 2021	to scammer's friend	£1,600
6 September 2021	to scammer's friend	£1,500
6 September 2021	to scammer's friend	£50
7 September 2021	to scammer's friend	£50
7 September 2021	to scammer's friend	£600
10 September 2021	to scammer's friend	£2,050
11 September 2021	to scammer's friend	£970
<b>13 September 2021</b>	<b>via payment transfer service</b>	<b>£130</b>
<b>14 September 2021</b>	<b>via payment transfer service</b>	<b>£1,000</b>
15 September 2021	to scammer's friend	£600
<b>20 September 2021</b>	<b>via payment transfer service</b>	<b>£200</b>
<b>21 September 2021</b>	<b>via payment transfer service</b>	<b>£250</b>
<b>29 September 2021</b>	<b>via payment transfer service</b>	<b>£190</b>
<b>30 September 2021</b>	<b>via payment transfer service</b>	<b>£120</b>
<b>30 September 2021</b>	<b>via payment transfer service</b>	<b>£200</b>
<b>1 October 2021</b>	<b>via payment transfer service</b>	<b>£300</b>
<b>2 October 2021</b>	<b>via payment transfer service</b>	<b>£250</b>
<b>6 October 2021</b>	<b>via payment transfer service</b>	<b>£250</b>

<b>7 October 2021</b>	<b>via payment transfer service</b>	<b>£100</b>
<b>8 October 2021</b>	<b>via payment transfer service</b>	<b>£280</b>
<b>11 October 2021</b>	<b>via payment transfer service</b>	<b>£200</b>
<b>15 October 2021</b>	<b>via payment transfer service</b>	<b>£1,250</b>
<b>15 October 2021</b>	<b>via payment transfer service</b>	<b>£250</b>
<b>16 October 2021</b>	<b>via payment transfer service</b>	<b>£250</b>
<b>18 October 2021</b>	<b>via payment transfer service</b>	<b>£500</b>
<b>18 October 2021</b>	<b>via payment transfer service</b>	<b>£650</b>
<b>19 October 2021</b>	<b>via payment transfer service</b>	<b>£250</b>
<b>19 October 2021</b>	<b>via payment transfer service</b>	<b>£150</b>
<b>26 October 2021</b>	<b>via payment transfer service</b>	<b>£250</b>
<b>28 October 2021</b>	<b>via payment transfer service</b>	<b>£150</b>
<b>29 October 2021</b>	<b>via payment transfer service</b>	<b>£520</b>
<b>1 November 2021</b>	<b>via payment transfer service</b>	<b>£790</b>
<b>1 November 2021</b>	<b>via payment transfer service</b>	<b>£250</b>
<b>3 November 2021</b>	<b>via payment transfer service</b>	<b>£100</b>
<b>3 November 2021</b>	<b>via payment transfer service</b>	<b>£475</b>
<b>4 November 2021</b>	<b>via payment transfer service</b>	<b>£250</b>
<b>8 November 2021</b>	<b>via payment transfer service</b>	<b>£100</b>
<b>11 November 2021</b>	<b>via payment transfer service</b>	<b>£405</b>
<b>12 November 2021</b>	<b>via payment transfer service</b>	<b>£200</b>
<b>13 November 2021</b>	<b>via payment transfer service</b>	<b>£750</b>
<b>14 November 2021</b>	<b>via payment transfer service</b>	<b>£250</b>
<b>15 November 2021</b>	<b>via payment transfer service</b>	<b>£200</b>
<b>17 November 2021</b>	<b>via payment transfer service</b>	<b>£290</b>
<b>17 November 2021</b>	<b>via payment transfer service</b>	<b>£80</b>
<b>22 November 2021</b>	<b>via payment transfer service</b>	<b>£400</b>
<b>24 November 2021</b>	<b>via payment transfer service</b>	<b>£750</b>
<b>25 November 2021</b>	<b>via payment transfer service</b>	<b>£200</b>
<b>26 November 2021</b>	<b>via payment transfer service</b>	<b>£300</b>
<b>27 November 2021</b>	<b>via payment transfer service</b>	<b>£150</b>
<b>28 November 2021</b>	<b>via payment transfer service</b>	<b>£920</b>

Unfortunately, we now know the woman was a scammer. The scam was uncovered when Mr R tried to borrow some money from his brother as he'd run out of money to send to the woman, but his brother said it sounded like a scam. Mr R then reported the payments he had made to Nationwide and asked it to refund the money he had lost.

Nationwide investigated and accepted it hadn't done enough in relation to the payments sent to the scammer's friend. But it also thought Mr R hadn't acted appropriately, so it refunded 50% of these payments. Nationwide also said it didn't think it was responsible for the payments sent to Mr R's account with the payment transfer service, so didn't agree to refund any of these. And it paid Mr R £250 compensation for delays in providing the refund. Mr R wasn't satisfied with Nationwide's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think Mr R had a reasonable basis for belief when making the payments to the scammer's friend, so thought Nationwide's offer to refund 50% of these was fair. They also didn't think Nationwide needed to intervene when Mr R made the payments to his account with the payment transfer service, so didn't

think it needed to refund any of these payments. Mr R disagreed with our investigator, so the complaint has been passed to me.

### **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.

#### *Are the payments covered by the CRM code?*

I've first considered whether the CRM code applies to all the payments Mr R made as a result of this scam.

The Lending Standards Board Contingent Reimbursement Model (the CRM code) is a voluntary code Nationwide has signed up to. It sets out a number of circumstances in which firms are required to reimburse customers who have been the victims of certain types of scam. But it only covers payments where a customer paid funds to another person for what they thought were legitimate purposes, but which were in fact fraudulent.

In this case the earlier payments Mr R made were transferred directly from his Nationwide account to bank details for the scammer's friend. And so I think these payments are covered by the CRM code.

But the later payments Mr R made, highlighted in bold in the table above, were sent to an account in his own name with a payment transfer service. So these payments weren't sent to another person, and the way the CRM code is written means I don't think it applies to these payments.

#### *The payments covered by the CRM code*

As I explained above, the early payments Mr R sent directly to the scammer's friend are covered by the CRM code. This code requires firms to reimburse customers who have been the victim of authorised push payment scams, like the one Mr R fell victim to, in all but a limited number of circumstances. And it is for the firm to establish that one of those exceptions to reimbursement applies.

Under the CRM code, a firm may choose not to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made
- The customer made the payment without a reasonable basis for believing that:
  - o the payee was the person the customer was expecting to pay;
  - o the payment was for genuine goods or services; and/or
  - o the person or business with whom they transacted was legitimate

There are further exceptions within the CRM code, but these don't apply here.

#### *Was Mr R vulnerable, under the CRM code?*

The CRM code says that, where a customer is vulnerable, the firm should refund them in full – regardless of whether any of the exceptions to reimbursement apply. And it defines a customer as vulnerable if it would not be reasonable to expect them to have protected themselves from the particular scam they fell victim to.

Mr R has argued that his age and the fact that he had previously fallen victim to a similar friendship scam mean that he was particularly vulnerable to this scam. But, based on what

I've seen of his communication with the scammer and Nationwide, it appears he was able to ask a number of questions about what was going on and had a good understanding of the potential risks of scams. So while my intention isn't to diminish the position Mr R found himself in, I don't think his circumstances were such that he was unable to protect himself from this particular scam.

And so I don't think Mr R meets the definition of vulnerable from the CRM code, and I think the exclusions to reimbursement could still apply.

*Did Mr R have a reasonable basis for belief when making the payments?*

Nationwide has argued that Mr R didn't have a reasonable basis for belief when he made these payments. And while I appreciate that this was a sophisticated scam where the scammer built up trust with Mr R for a number of years and he dealt with a number of different people and companies who all appear to have been involved in the scam, I also think there were a number of things about what has happened that should have caused him significant concern.

Nationwide has sent us its records of a previous scam Mr R fell victim to in early 2021. This scam also involved Mr R being asked to send money to someone he had met online in order to help them claim an inheritance. Nationwide has also sent us copies of the scam education Mr R was sent after this previous scam, in which it warned him it should be concerning when people online start asking for money and never to send money to someone he'd only met online. And Mr R acknowledges these warnings and accepts the scam he had fallen victim to. So I think the similarities with this previous scam he had fallen victim to just a few months earlier should have caused Mr R significant concern about what he was being asked to do here.

From what I've seen, Mr R doesn't appear to have been sent any paperwork relating to the licenses or certificates he was being asked to pay for or done any checks to make sure these were relevant or necessary. And given the amount of money he was being asked to send and what he's said about wanting to protect his friend from people taking advantage of her, I think it would be reasonable to expect him to have checked these things before making the payments. I'm also not satisfied what Mr R was told about the woman inheriting a significant amount of gold, needing to ship it around the world and Mr R being the only person who could help her financially was particularly plausible, and I think it should have caused Mr R some concern about whether what he was being told was true.

The communication I've seen between Mr R and the woman also suggests Mr R was aware that his banks would suspect he was the victim of a scam, and so he needed to be "*clever*" and "*crafty*" to move his money to her in a way which wouldn't cause them to intervene. And I think recognising that his banks would suspect he was the victim of a scam should have caused Mr R significant concern about what he was being told. The communication also shows a number of Mr R's friends and family had told him they thought he could be the victim of a scam, and even only agreed to lend him money on the condition that he didn't send it on to anyone else. And I think people close to him telling him this should also have caused him significant concern about what was happening.

I sympathise with the position Mr R has found himself in. And I appreciate that he thought he was speaking to a friend who he trusted. But I think there were a number of things here which should have caused him significant concern. And I don't think he did enough, or that the seemingly genuine information he was given should have been enough, to satisfy those concerns. So I think Nationwide has established that Mr R made the payments without a reasonable basis for belief that they were genuine.

Nationwide has therefore established that one of the exceptions to reimbursement under the CRM code applies here, and it does not have to refund Mr R all the money he lost.

*Did Nationwide meet its obligations under the CRM code?*

Even though I don't think Mr R had a reasonable basis for belief when making the payments, he may still be entitled to a refund of some of the money he lost if Nationwide didn't meet its obligations under the CRM code – one of which is to provide effective warnings when it identifies a scam risk.

Nationwide has accepted that it should have identified a risk here and didn't do enough before allowing the payments to go through. So it has accepted that it didn't meet its obligations under the CRM code.

Where one of the exceptions to reimbursement applies, but a firm also didn't meet its obligations, the CRM code sets out that the customer is then entitled to a refund of 50% of the money they lost.

As Nationwide has already refunded 50% of the money Mr R lost from the payments covered by the CRM code, I think this is a fair and reasonable offer and I don't think it would be fair to require it to refund any more of these payments than this.

*The payments not covered by the CRM code*

As I explained above, the later payments Mr R made, highlighted in bold in the table above, aren't covered by the CRM code. And Mr R accepts he made these payments himself. So while I recognise that he didn't intend for the money to ultimately go to scammers, he did authorise these payments. And so the starting position is that he is liable for the payments and Nationwide doesn't have to refund them.

However, taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I think Nationwide should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

So I've also considered whether Nationwide should have identified that Mr R was potentially at risk of fraud as a result of these payments, or otherwise done more to protect him.

But none of these payments made to the payment transfer service were for particularly large amounts of money, or for amounts large enough that we would expect a bank to identify a payment as suspicious based on its size alone. There were a number of payments in and out of Mr R's account around the time of these payments for similar amounts. None of the

payments left the balance of the account at a particularly unusual level. And the payments were all made to an account in Mr R's own name. So I wouldn't have expected Nationwide to identify that Mr R could be at risk of financial harm as a result of these payments and I don't think it's unreasonable that Nationwide didn't take any further steps or carry out any additional checks before allowing these payments to go through.

Mr R has argued that the fact he had fallen victim to a similar scam previously, the number of payments he was making and the total amount of money he sent should have caused Nationwide to intervene. And that, if it had intervened, the scam would have been uncovered and he wouldn't have lost this money.

But, even taking into account that Nationwide knew he had been the previous victim of a scam, I still don't think these payments formed a suspicious pattern that Nationwide should have identified. The payments were mostly sent on different days, sometimes with gaps of several days between them. The amounts fluctuated both up and down, so there was no clear pattern of payments increasing over time as is often seen with scams. And Mr R's account was in frequent, everyday use and it wasn't uncommon for him to make multiple payments to the same payee on the same or consecutive days. So I still think it's reasonable that Nationwide didn't identify a risk or carry out any further checks before allowing these payments to go through.

And so I don't think Nationwide has acted unreasonably in relation to these payments, or that it would be fair to require it to refund them.

### Recovery

We expect banks to take reasonable steps to help customers recover any money they have lost as a result of a scam. So I've also considered whether Nationwide did enough to try to recover the money Mr R lost.

But Nationwide has sent us evidence showing it contacted the bank the payments to the scammer's friend were sent to, asking if any funds could be returned, but was told there were no funds left. And, given the amount of time that had passed since the payments were made when Nationwide was made aware of the scam, I think it's unlikely anything we would reasonably have expected it to do would have led to Mr R's money being recovered. I also wouldn't expect Nationwide to try to recover the money sent via the payment transfer service, as this was sent to an account in Mr R's own name.

So I don't think it would be fair to require Nationwide to do anything further to recover the money Mr R lost.

### Customer Service

Nationwide has said it should have offered to refund Mr R 50% of the money he sent directly to the scammer's friend when he first raised his claim. And, from what I've seen, I think the £250 it has offered is fair and reasonable compensation for the distress and inconvenience caused to Mr R by Nationwide not initially reaching this outcome. So I don't think it would be fair to require it to pay any further compensation.

**My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 22 February 2024.

Alan Millward  
**Ombudsman**