

The complaint

Mr G complains that Nationwide Building Society (NWide) won't refund money he paid for a property purchase in Spain.

What happened

What Mr G says:

Mr G says he was visiting Spain with friends in 2020 and decided to buy a property there. He was introduced to a local estate agent and its CEO. He agreed to buy a property. The 'client record' shows he agreed to pay 'Euro112,000 plus 100% mortgage'. Mr G paid funds from both his NWide account and from an account he has with another bank.

The payments paid from Mr G's NWide account were:

| Date | Payment | Amount |
|-------------------|---------------------------------------|--------------------------------------|
| 7 September 2020 | International payment to estate agent | £4,584.21 (EUR 5,000) |
| 15 September 2020 | International payment to estate agent | £3,460.00 (EUR 3,672.44) |
| 14 October 2020 | International payment to CEO | £4,636.00 (EUR 5,000) |
| 21 October 2020 | International payment to CEO | £2,783.45 (EUR 3,000) |
| Total | | £15,463.66 (EUR16,672.44) |

The purchase didn't go ahead and he was met with various excuses from the estate agency and its CEO. He told us he has commenced legal proceedings in Spain.

Mr G says NWide should refund the money. He says his other bank have already done so, and NWide should do the same.

What NWide said:

NWide said this was a 'civil dispute'. The estate agent appeared to be trading as a genuine company when the payments were made by Mr G. It didn't appear that the estate agent set out to scam Mr G. NWide noted that Mr G was pursuing a court case. The bank said the Contingent Reimbursement Model (CRM) Code didn't apply either.

Our investigation so far:

Mr G brought his complaint to us. Our investigator didn't uphold it. He said any intervention by NWide would not have made a difference – Mr G would have said he was buying a property in Spain, had been introduced to the agency by friends – there weren't any 'red

flags' to suggest he was being scammed. He said NWide had tried to recover the money but without success.

Mr G brought his complaint to us – he said if his other bank had refunded the money he's lost, then NWide should do so as well. The complaint has therefore come to me to make a final decision.

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 need to decide whether this was a scam (where a scammer takes money from a customer with no intention of providing any services or returning the money to them) or a civil dispute (where a payment is made to a legitimate trading company or business, but the promised services or products don't materialise, or are sub-standard).

If this was a scam – then banks (including NWide) must follow industry and regulatory guidance to check certain payments and in some circumstances, protect customers by stopping the payments and contacting them. And where banks haven't followed the guidance, they can be asked to refund them. This is called 'Authorised Push Payments guidance (APP).

To give an idea, typical scams are commonly perpetrated by criminals through illegal call centres - for example, scams relating to online banking, or tricking customers into transferring funds to a 'safe account', and romance or investment scams using social media. But where payments are made to a valid business for work to be done, then such principles don't apply. This is then classed as a civil dispute, and for which banks normally have no liability.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply where there is a civil dispute between a seller and a buyer – as it isn't then considered a scam.

I looked at Mr G's complaint with this in mind. I can see this is clearly a civil dispute between him and the estate agency/ the CEO. I say that as:

- I can see the estate agency is a genuine business, trading in Spain. A scammer typically has no legal basis or address.
- The estate agency published photos of the property to be purchased.
- Mr G signed a 'client record' to buy the property.
- Mr G has started legal proceedings against the company – and these are going ahead. So – the estate agency must exist. That wouldn't be the case with a scammer – who typically tricks people out of money and then disappear.

Therefore, I consider this to be a civil case and not a scam, and so NWide have no duty to investigate it as a scam; nor refund any money paid by Mr G.

Mr G says his other bank has refunded the money paid from that account. I can't comment on that as each claim or complaint is looked at in its individual circumstances. It doesn't follow that we can ask NWide to also refund the money.

Recovery

We expect firms to try to recover funds from recipient banks.

And I can see that NWide tried to recall the payments made. The bank did this when Mr G contacted the bank in April 2023. But unfortunately, this wasn't successful. Given the passage of time since the payments were made, I'm not surprised that was the case.

I'm sorry Mr G has had to contact us in these circumstances. But for the reasons I've explained, I can't reasonably hold NWide liable to refund the money.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 16 December 2024.

Martin Lord
Ombudsman