

The complaint

Mr T complains Nationwide Building Society didn't do enough to protect him when he fell victim to an investment scam.

What happened

Mr T has had several accounts with Nationwide and has been a customer for over 10 years.

Mr T says he spoke to a lifelong friend about investments in January 2023 who explained that they'd recently invested in an online cryptocurrency platform and had made good profits. Mr T says he trusted his friend's recommendation as they work in the financial sector and that they discussed the investment in great detail. He says he researched the company online and left his contact details as he was impressed by what he saw and wanted to know more. Mr T says he was contacted by a woman shortly afterwards and having spoken to them several times he decided to go ahead and invest.

Mr T says the woman he spoke to – who was, in fact, a scammer – asked him to download software that allowed her to remotely access his computer. She said that this would allow her to trade on his behalf and guide him through the process. Mr T had a cryptocurrency wallet – and had invested in cryptocurrency before – so he didn't need a new one setting up.

Mr T says he started off investing £250 and made further payments in February and March 2023 as he saw his investment making a profit and as his confidence grew. Mr T says he was told at one point to invest more money as the market was so good he was guaranteed to make a return. He says his investment then started making a loss and that he was encouraged to take out a loan. Mr T says he didn't want to do that, so he tried to withdraw his funds. He says he was told he'd have to pay a fee of around £20,000 in order to do so.

Mr T says he realised he'd been scammed when he was told he'd have to pay such a large fee to withdraw his funds. He subsequently contacted Nationwide – with the help of a representative – to say he'd been scammed and to complain that Nationwide hadn't done enough to protect him. He asked Nationwide to refund his losses.

Nationwide looked into Mr T's claim and agreed that it should have intervened when he tried to make his first large payment, which was for just over £4,600. Nationwide apologised that this hadn't happened and refunded 50% of the payments he'd made – minus credits he'd received – and paid £250 in compensation into his account by way of an apology. Nationwide said liability should be shared on a 50/50 basis because the promised returns were too good to be true, Mr T knew the investment opportunity was unregulated, and he didn't conduct enough checks on the company or receive any documentation or contracts.

Mr T was unhappy with Nationwide's response. So, he complained to us saying Nationwide should refund his losses in full as it hadn't intervened at all, and he had reasonably believed the investment was genuine.

One of our investigators looked into Mr T's complaint and said that they didn't think the first two payments he'd made – on 6 and 10 February 2023 – were sufficiently unusual to warrant

intervention. But they did think the third payment – of £6,500 on 10 February 2023 – was as it was made moments after the second payment and took the total he'd sent that day to over £15,000. In addition, our investigator didn't think Mr T had acted unreasonably. So, our investigator recommended that Nationwide refund the remaining 50% from the third payment Mr T had made. In other words, an additional £13,599.58 plus interest.

Mr T's representative agreed with our investigator's recommendation, but Nationwide didn't. Nationwide said that Mr T didn't do enough to check the investment was a legitimate one – so liability should be split. Because Nationwide didn't agree, it asked for Mr T's complaint to be referred to an ombudsman for a decision. His complaint was passed on 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.

Last month I issued a provisional decision in which I said the following:

"I can see that Mr T had invested in cryptocurrency before deciding to invest in the trading platform that his friend had recommended. So, he wasn't new to cryptocurrency, or the risks associated with it. I can see that he made money from his previous cryptocurrency investment and had a cryptocurrency wallet before he fell for what both parties appear to accept was an investment scam. More importantly, I agree with our investigator that we wouldn't necessarily have expected Nationwide to intervene at the point it says it felt it should have done because I agree that the first payment Mr T made ought not to have appeared unusual given everything I've just said. But I don't necessarily agree with the reasons our investigator has given for Nationwide intervening when Mr T made his third payment. I'll explain why.

Mr T paid £16,500 to his cryptocurrency wallet on 10 February 2023. I'm satisfied that he tried to pay that £16,500 all in one go, but for some reason the payment didn't go through. So, he called Nationwide to find out what the problem was. He explained to the agent that he was trying to send £16,500 to his cryptocurrency wallet – he named the exchange he was using – but all the agent did was suggest he might want to try the payment again or try a smaller amount. The agent didn't question Mr T at all as to why he was making such a large payment despite being on the phone to Mr T for five minutes. In the end Mr T discovered that he was able to make the payment by splitting the amount he sent into two – a payment of £10,000 and a payment of £6,500. Both payments went through without any checks. But more importantly the agent didn't ask any questions even though that's what we'd expect in circumstances like this. So, at that stage I'd agree Nationwide missed an opportunity to prevent further loss to Mr T. That's because this complaint has several hallmarks of an investment scam – appropriate questioning would, in my opinion, have led to this apparent scam coming to light. That means – all other things being equal – that Nationwide has if anything refunded more than we'd expect. So, I'm going to consider whether or not it was fair of Nationwide to say liability should be split 50/50 in this case. If I decide that was fair, then it follows that Nationwide has refunded more than I would have asked it to refund, so I shouldn't be asking it to do more.

In this case I can see that by mid-February 2023 there was already one negative review about the trading platform that Mr T was investing in. I can also see from the chat messages Mr T's representatives have sent us – between Mr T and the scammer – that he had doubts early on about the platform and the investment that he was being asked to make. I agree that these doubts, the negative review and the returns he was told he'd make should all have been red flags in this case. I agree too – given the

sums of money that Mr T invested – that he ought to have made more checks. In the circumstances, I don't think it was unreasonable of Nationwide to say liability should be split 50/50. I can also see in the chat that Mr T looked into alternative ways to send money to his cryptocurrency account when Nationwide started placing limits on the amount he could transfer. In short, I don't think it's fair to ask Nationwide to do more in this particular case."

Both parties were invited to reply, and both did. Nationwide said it had nothing to add. Mr T's said there was nothing further he could add other than to say he truly believes that bank intervention would have ended the scam because he trusted his bank. And that had they asked him to complete further due diligence he would have done so.

Having looked at everything the parties have sent in, and having considered Mr T's response, I remain of the view that liability should be split in this case from the third payment onwards. That means Nationwide has refunded more than I would have asked it to do. So, I remain of the view that I don't think it's fair to ask Nationwide to do more in this particular case.

My final decision

My final decision is that I'm not upholding this complaint as the steps Nationwide Building Society has already taken are fair and reasonable.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 2 April 2024.

Nicolas Atkinson
Ombudsman