

## **Complaint**

Mrs H1 and Mrs H2 are unhappy that NatWest Bank Plc did not reimburse them after they claimed they were victims of a scam involving an investment in a company founded by a Mr R.

They have brought this complaint with the assistance of professional representatives, but for simplicity's sake I've generally referred to them throughout.

## **Background**

In early 2023, Mrs H1 and Mrs H2 were introduced to an investment opportunity by a friend of Mr R who was acquainted with them through a gym they owned. The investment involved a limited company founded by Mr R, which purportedly acted as an intermediary for an overseas company offering a niche service to a small number of potential UK clients.

After discussions, Mrs H1 and Mrs H2 decided to invest in the company. They used their NatWest account to make payments totalling just over £30,000. In exchange for their investment, they were issued equity in the company and appointed as directors. However, they insist that these roles were nominal. The company subsequently went into liquidation, and its operations ceased.

They contacted NatWest and told it they'd fallen victim to a scam, but it didn't agree to pay a refund. It considered their claim under the terms of the Lending Standards Board's Contingent Reimbursement Model (CRM) Code, but it said these payments weren't covered because it considered that this wasn't an authorised push payment (APP) scam but a private civil dispute.

Mrs H1 and Mrs H2 weren't happy with that response and so they referred their complaint to this service. It was looked at by an Investigator who came to broadly the same conclusion as the bank. They disagreed with the Investigator's view. In support of their arguments, they pointed out that:

- Mr R wasn't authorised or regulated to carry out investment activities.
- They were told that the payments would only be used to meet the expenses of running the business, but that doesn't appear to have been the case here.
- The payments were made into Mr R's personal account, rather than an account in the name of the limited company.
- During the course of the business, Mrs H1 and Mrs H2 received £3,800 from one of the company's clients, but these funds were returned after the company failed to fulfill its contractual obligations and those clients threatened legal action.

Since Mrs H1 and Mrs H2 disagreed with the Investigator's opinion, the complaint has been passed to me to consider and come to a final decision.

## Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The starting position at law is that NatWest is required to process payments authorised by its customers under the Payment Services Regulations 2017 and the terms and conditions of the customer's account. However, NatWest is also a signatory to the CRM Code, which provides additional protections for customers who fall victim to authorised push payment (APP) scams.

The CRM Code defines an APP scam as a situation where a customer *"transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent."* It explicitly doesn't cover what it terms *"private civil disputes"*, such as situations where customers are dissatisfied with goods, services, or other contractual matters.

Before I consider anything else, I have to be persuaded that Mrs H1 and Mrs H2 fell victim to an APP scam, as described above. To answer that, I must determine whether Mr R procured the payments dishonestly, with intentions that were misaligned with those of Mrs H1 and Mrs H2.

The evidence shows that the payments were made for Mrs H1 and Mrs H2 to acquire shares in Mr R's company. That appears to have happened. Documentation from Companies House lists both individuals as shareholders and directors of the company. The purpose of the payments appears to align with their intention to invest in a business they believed had strong financial prospects. The company's subsequent failure is not, in itself, evidence of fraudulent intent. Businesses can fail for a variety of reasons, including poor management or market conditions. There is insufficient evidence to conclude that Mr R's intent was to defraud Mrs H1 and Mrs H2 rather than to establish a legitimate business.

Mrs H1 and Mrs H2 allege that Mr R misused the company's funds, pointing out that the payments were made to a personal account rather than a company account. I have reviewed statements for the receiving account, which show that the payments were mixed with Mr R's personal funds. While this raises concerns about the governance of the business, it is not conclusive evidence of fraudulent intent. It is plausible that this reflects poor financial management rather than deliberate dishonesty.

Furthermore, Mr R continued to promote the company after these payments were made. Evidence of messages exchanged between the parties shows a concerted plan to promote the company through media appearances and these efforts appear to have been successful, as Mr R did make some media appearances. It would be counterintuitive for him to have done so if his intent was solely to defraud investors.

Mrs H1 and Mrs H2 have argued that Mr R was not authorised to conduct investment activities. However, offering shares in a limited company does not require authorisation from the Financial Conduct Authority. This argument does not, therefore, support the contention that the payments were procured fraudulently.

Based on the evidence, I am not persuaded that this case constitutes an APP scam as defined by the CRM Code. The payments were made for a legitimate purpose—acquiring shares in a limited company—and there is insufficient evidence to demonstrate that Mr R dishonestly procured the payments. This appears to be a private civil dispute over an investment that did not yield the expected returns.

### **Final decision**

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mrs H to accept or reject my decision before 30 December 2024.

James Kimmitt  
**Ombudsman**