

The complaint

Mrs H complains that National Westminster Bank Plc (NatWest) won't refund money she lost in an investment scam.

What happened

Mrs H is represented by a third-party claims firm, but I'll refer only to Mrs H for ease of reference.

Mrs H says she sold her house and moved to another property, leaving her with some spare money, £40,000 of which she planned to invest.

She says she was approached by an acquaintance, who she trusted, about an investment opportunity. The investment opportunity was presented to Mrs H and her son, in online presentations and via email. She says she was promised returns of 2-5% per week, she let 'experts', family and friends research the investment for her and was persuaded to invest.

Between 12 October 2021 and 8 November 2021 Mrs H made a series of payments from her NatWest account, totalling £42,301, to a cryptocurrency account she had recently opened in order to fund the investment, and it was from her new cryptocurrency account that payments were made to the scammers with whom she was investing.

Date	To	Amount
12/10/2021	Cryptocurrency exchange	£2,200
12/10/2021	Cryptocurrency exchange	£1
12/10/2021	Cryptocurrency exchange	£500
19/10/2021	Cryptocurrency exchange	£2,000
20/10/2021	Cryptocurrency exchange	£4,600
26/10/2021	Cryptocurrency exchange	£5,000
27/10/2021	Cryptocurrency exchange	£3,000
28/10/2021	Cryptocurrency exchange	£5,000
01/11/2021	Cryptocurrency exchange	£5,000
02/11/2021	Cryptocurrency exchange	£5,000
03/11/2021	Cryptocurrency exchange	£5,000
08/11/2021	Cryptocurrency exchange	£5,000
Total £42,301		

She says she started to receive returns from the investment in the first month but after the first withdrawal from her investment she struggled to get her money out. In April 2022, she says her son told her the investment was a scam.

Payments to another cryptocurrency account provider appear to have started in April 2021 and continued after the payments that form the subject of this complaint.

In a call on 7 February 2024, Mrs H's son spoke to NatWest and explained that his mother had been the victim of a scam and indicated he had also been a victim of a scam involving

the same investment. A complaint was later brought to NatWest, but it didn't uphold it. It said the transactions were between Mrs H's own accounts and had not been flagged as being suspicious.

NatWest said a written warning was provided when the first payment was made to Mrs H's new cryptocurrency account. It asked her what the purpose of the payment was and Mrs H responded that she was making an investment. The warning said that if the investment seemed too good to be true, it was likely a scam. It also directed Mrs H to take the FCA Scam Smart test and to check the company was listed and had no warnings against it.

Our investigator considered Mrs H's complaint, but didn't uphold it. She thought the pattern of transactions might have prompted NatWest to have sent Mrs H a written warning on 26 October 2021, but she didn't think Mrs H would have acted differently or that her answers to queries that NatWest might have made ought reasonably to have caused NatWest to take further steps.

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 sorry to hear that Mrs H has been the victim of what appears to be a cruel scam. It's not in question that she authorised and consented to the payments in this case. So, although Mrs H didn't intend for her money to go to a scammer, under the terms of the Payment Services Regulations 2017 and the terms of her account, Mrs H is presumed liable for the loss in the first instance.

But, 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, there are circumstances where it might be appropriate for NatWest to take additional steps or make additional checks before processing a payment.

I need to decide whether NatWest acted fairly and reasonably when Mrs H made the payments. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) doesn't apply in this case because it applies to faster payments made to another UK beneficiary. In this case, the payments were from Mrs H's own account with NatWest to her cryptocurrency account with another business.

I don't think the payments were particularly unusual for the account, initially. Mrs H appears to have made payments to another cryptocurrency account from April 2021, for amounts ranging from around £13 to £3,050. A large deposit was made into the NatWest account in September 2021 and Mrs H told NatWest, when making the initial payments to the cryptocurrency account, that she was investing her money. Initial payments to the new cryptocurrency account were similar in size to previous deposits to her existing cryptocurrency account and her NatWest account was well-funded. By 26 October 2021 increasingly large payments were being made to the account on a weekly basis, with further large payments on 27 and 28 October 2021. I agree with the investigator that NatWest ought to have made a proportionate intervention on 26 October 2021, by providing a written warning to Mrs H.

However, had NatWest done so, I'm not persuaded this would have changed things. She had received a warning when making her initial payment, advising her to research the investment and check the FCA website, but she says she was reliant on friends and family

for advice. She doesn't mention any concern she had with the investment until some time after she received her first return from the investment, which was on 16 November 2021, after the last transaction. Her friends and family do not appear to have raised concerns with her before April 2022 and her son had also invested in the same investment.

I agree with the investigator, that if NatWest had called her instead, Mrs H is likely to have said that she was knowingly making this investment, had undertaken research through friends and family and had no concerns with the investment. All in all, I think further queries from NatWest are unlikely to have led to a different outcome.

In terms of recovering Mrs H's money, Mrs H informed NatWest of the scam in February 2024, many months after her final investment. The cryptocurrency account was under her control, so there were no practical steps NatWest could have taken that weren't available to Mrs H and Mrs H indicates she had already withdrawn the last remaining available amounts from the account in May and December 2022. So, I don't think there was anything NatWest could do to assist at that time.

I'm sorry Mrs H appears to have lost most of her investment in a scam, but I don't consider NatWest is responsible for her loss.

My final decision

I don't uphold Mrs H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 18 September 2024.

Greg Barham
Ombudsman