

The complaint

Mr and Mrs E, who are represented, complain that Nationwide Building Society didn't reimburse them after it failed to protect them from being defrauded.

What happened

In March 2018, Mr and Mrs E were introduced to an investment opportunity by a family member. They both spoke with representatives of the firm facilitating the investment and were provided with paperwork and comprehensive explanations of the opportunity.

Mr and Mrs E decided to proceed with the investment and made the following payments on instruction of the firm:

1. 26 March 2018 - £10,000
2. 24 October 2018 - £10,000

Mr and Mrs E eventually attempted to withdraw some of their investment but contact from the firm ceased and they went into liquidation. There were also reports online that suggested the investment was a Ponzi scheme. It was at this stage Mr and Mrs E suspected they'd been defrauded.

They reported the matter to Nationwide, but it didn't uphold their complaint. Nationwide concluded in its investigation that the matter was more likely a civil dispute rather than a fraud, as there was nothing to suggest the firms were acting illegitimately.

Mr and Mrs E remained unhappy with the outcome of their complaint, so they brought the matter to our service for an independent review.

An Investigator considered the evidence and testimony provided by both parties but didn't recommend the complaint be upheld. In summary, they concluded that while they weren't certain if the matter was a fraud or not, any intervention likely wouldn't have succeeded due to the sophistication of the fraud.

Mr and Mrs E, via their representative, didn't agree. So the matter has now been passed to me for a final decision to be made.

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.

Have Mr and Mrs E likely been victim of a fraud?

Our Investigator alluded to the fact that, at the time of writing their view, we weren't certain if Mr and Mrs E had fallen victim to a fraud. Since then, our service has collated information about the firm(s) that offered the investment opportunity and has now concluded this was likely a fraud. Some of the key considerations around this are:

- A court hearing has determined that this was in fact a Ponzi scheme where new investors' funds were used to pay old investors.
- There had been a misrepresentation by the firm regarding its available assets.
- The judge deemed that there had been no trading carried out by the firm, at least in part, and it appears to have laundered funds through offshore accounts.

Based on the above facts, I am persuaded that Mr and Mrs E were victims of fraud here.

Considerations

Mr and Mrs E's representative has, in its submissions, mentioned that Nationwide ought to consider the Contingent Reimbursement Model (the CRM Code)—a voluntary reimbursement scheme that provides added protection to victims of fraud—in its assessment of the complaint.

However, I felt it important to point out before delivering my findings that this complaint doesn't fall under the scope of the CRM Code. The payments subject to this complaint were made in March and October 2018. And Nationwide agreed to abide by the principles of the CRM Code when it took effect in May 2019: this was not being applied retrospectively. So, I won't be considering the principles of the CRM Code in my assessment.

However, taking into account longstanding regulatory expectations and requirements, and what I consider to be good industry practice, Nationwide ought to have been on the look-out for the possibility of fraud and made additional checks before processing payments in some circumstances.

Could Nationwide have done more to prevent Mr and Mrs E from falling victim to the fraud?

Nationwide didn't intervene in the payments subject to this dispute. However, when considering them against the usual account activity, I think they ought to have.

Having considered the typical account usage prior to the first of the two payments, Mr and Mrs E tended to make low value card payments, ATM withdrawals and occasional transfers. So a sudden payment of £10,000 to a new payee ought to have stood out. And this should have prompted Nationwide to contact Mr and Mrs E to ensure they weren't at risk of financial harm.

But, had it done so, I find it unlikely this would have prevented Mr and Mrs E from continuing with the payment. Nor do I find it likely Nationwide would have been concerned enough to have prevented the payments. I'll explain why.

Mr and Mrs E's representative has told our service that the investment opportunity was introduced via a family member, and endorsed by a finance professional. So it came with the recommendation of a close and trusted person to them, as well as a professional in the industry. This would have added a layer of legitimacy to the investment opportunity had Mr and Mrs E disclosed this.

Both the firms Mr and Mrs E were corresponding with were registered businesses that had seemingly no negative online presence. Further to this, Mr E attended the physical offices of the firm and met with its representatives. He was provided with professional looking documentation setting out the opportunity, and a contract which appeared legitimate. Again, had this been disclosed to Nationwide in any intervention, this likely would have quashed any concerns it might have had.

The payments were also made to an account in the name of the firm Mr and Mrs E were

dealing with, adding further to the sense of legitimacy.

Overall, I'm satisfied that had the above information been presented to Nationwide as part of any intervention, it's unlikely it would have had cause for concern. And any warning that it may have provided surrounding the common features of investment fraud wouldn't have resonated with Mr and Mrs E: as they weren't applicable in this case.

For similar reasons, I'm not persuaded that any intervention on the second payment likely would have prevented the fraud, if intervention in that payment would have been warranted.

In conclusion, it is clear from the evidence available that Mr and Mrs E have likely been victim of a cruel and sophisticated fraud here. And while Nationwide ought to have intervened in the payments, I'm not persuaded any intervention likely would have prevented the fraud from taking place. This is due to the way it was introduced to Mr and Mrs E, the convincing and sophisticated nature of the fraud and apparent legitimacy of the firms involved at the time.

Recovery

Mr and Mrs E didn't raise a claim regarding the payments until several years after they'd been made. I therefore find it unrealistic that any attempts at recovering the funds from the beneficiary account would have been successful.

In this case, there is also evidence the fraudsters were misappropriating investor's funds to pay others.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E and Mr E to accept or reject my decision before 24 April 2025.

Stephen Westlake
Ombudsman