

The complaint

Mr W has complained that Nationwide Building Society (“Nationwide”) failed to protect him from falling victim to a cryptocurrency investment scam.

What happened

The background of this complaint is already known to both parties, so I won’t repeat all of it here. But I’ll summarise the key points and then focus on explaining the reason for my decision.

Mr W has used a professional representative to refer his complaint to this service. For the purposes of my decision, I’ll refer directly to Mr W, but I’d like to reassure Mr W and his representative that I’ve considered everything both parties have said.

Mr W has explained that several friends recommended investing in a cryptocurrency called Coscoin, as they’d made good returns on their own investments. Mr W says he did some research about Coscoin online and the reviews and information he found matched what he’d been told by his friends, so he decided to invest. Mr W therefore opened an account with a cryptocurrency exchange wallet and began investing by purchasing cryptocurrency which he then forwarded on to the Coscoin platform.

To fund his cryptocurrency exchange wallet Mr W made two debit card payments and sent ten online payments from his Nationwide account. The payments were as follows:

Date	Amount (£)
21/10/2021	150 (debit card)
24/10/2023	350 (debit card)
29/10/2023	90
29/10/2023	60
02/11/2023	380
06/11/2023	350
13/11/2023	1,900
22/11/2023	500
22/11/2023	30
22/11/2023	205
22/11/2023	5
01/12/2023	100
Total	4,120

Mr W explains that whilst investing he could see the activity of his investment and he appeared to be making good returns as he’d expected. With this comfort in mind he began to increase the size of the payments he made to his cryptocurrency wallet, and the frequency at which he made them. Mr W soon found that he was unable to withdraw any of the initial investment or profits he’d made, at which point he realised he’d been scammed.

Mr W made a complaint to Nationwide in which he said that it didn't question or withhold any of the transactions he made. He says that had it done so, some of the payments may've been prevented, and consequently his losses could've been reduced. Nationwide didn't uphold Mr W's complaint as it said that it was at the point that Mr W sent the cryptocurrency from his wallet to the Coscoin platform that the funds were lost, not when he made the payments from his Nationwide account. Mr W remained dissatisfied as he said Nationwide didn't provide any evidence to support its decision, so Mr W referred the complaint to this service.

Our investigator considered everything and didn't think the complaint should be upheld. He explained that he didn't think the values or pattern of the payments were unusual enough that Nationwide should've identified them as suspicious, or given Mr W any warnings before they were made.

As Mr W didn't accept the investigator's opinion, the case has been passed to me to make a 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'm sorry to disappoint Mr W but having considered everything I'm afraid I'm not upholding his complaint, broadly for the same reasons as our investigator, which I've set out below.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's not in question whether Mr W authorised these payments from leaving his account. It's accepted by all parties that Mr W gave the instructions to Nationwide and Nationwide made the payments in line with those instructions, and in line with the terms and conditions of Mr W's account.

But that doesn't always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won't result in harm.

I can see that all of the transactions were made to the same company – a well-known cryptocurrency exchange wallet which in itself is a legitimate company. But the question here is whether anything else about the payments should've led Nationwide to intervene before allowing them to be made – based on the risk they presented.

Nationwide says it's not able to confirm whether any warnings were shown before Mr W made the payments, due to the time that has passed since they were made. So as a starting point I've assumed that Nationwide didn't show any warnings, or intervene in any other way, for all of the payments. And having done so, I haven't found that Nationwide acted unfairly or caused the loss that Mr W experienced.

I say this because the payments were made to a legitimate cryptocurrency exchange where Mr W held an account in his own name, that he had control of. The values of the payments, although they fluctuated, were relatively low, and they were spaced out across a period of over a month. Additionally, I can see from Mr W's account activity in the months before these payments were made he regularly made online payments of similar values to the majority of the payments associated with this scam. So I don't think these payments should've stood out

to Nationwide as particularly unusual or suspicious, or that it ought to have detected that Mr W may've been being scammed.

By the time Mr W sent the largest payment, with a value of £1,900, he'd previously sent four payments to the same payee in the preceding two weeks. So I think it was fair for Nationwide to have assumed that Mr W trusted the payee, and that it allowed the payment to be made without delaying or blocking it.

It's also important to note that although Mr W ultimately lost the funds he believed he was investing, this wasn't due to the recipient of the payments he made from Nationwide being fraudulent. He sent the payments to a legitimate cryptocurrency exchange, at which point he was able to exchange pounds for cryptocurrency and forward them on to a cryptocurrency trading platform. I understand the loss occurred after this due to the cryptocurrency platform in question not allowing withdrawals to be made.

I've noted Mr W's representative highlighted that Mr W made four individual payments on one day. Whilst I accept this, the values of those payments were all fairly modest, with the cumulative value also remaining somewhat low. So whilst I've considered this point, it doesn't change my decision on whether Nationwide should've intervened at any point.

With all of these factors in mind, Nationwide didn't act unfairly by not intervening before any of Mr W's payments were made. Whilst I'm not disputing that Mr W is indeed the victim here, the payments themselves were not sent to a scammer, although I do understand they did form part of the payment journey in which Mr W unfortunately made a loss. But for the reasons I've explained I don't hold Nationwide responsible for that loss.

Recovery of the funds

Nationwide wasn't able to recover any of the funds Mr W lost as they were made available to him in his cryptocurrency wallet as soon as they were sent from Nationwide. So as Nationwide wasn't the point of loss, there's nothing more I'd have expected it to do in this instance.

The chargeback process is a relevant consideration for the debit card payments Mr W made. But as above, because Mr W received what he paid for from the merchant in the form of cryptocurrency, a chargeback wouldn't have been a viable route for Nationwide to pursue, as it's unlikely it would've succeeded.

I'm very sorry that Mr W has fallen victim to this scam and I do understand that my decision will be disappointing. But for the reasons I've set out above, I don't hold Nationwide responsible for that.

My final decision

I don't uphold Mr W's complaint against Nationwide Building Society.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 19 November 2024.

Sam Wade
Ombudsman