

The complaint

Mr M is being represented by solicitors. He's complaining about Nationwide Building Society because it declined to refund money he lost as a result of fraud.

What happened

Sadly, Mr M fell victim to an investment scam. His representative says he was introduced to the scheme by a friend who'd had some success. Mr invested using cryptocurrency and he was then able to see credits on a fake platform. To fund the investment, Mr M made payments of £1,000 and £4,000 from his Nationwide account to a cryptocurrency exchange on 9 February 2022.

Our investigator didn't recommend the complaint be upheld. He didn't feel Nationwide should have viewed the payments with any particular suspicion or that any further intervention was warranted before they were debited from Mr M's account.

Mr M didn't accept the investigator's assessment. His representative said the payments were of high value and purchased cryptocurrency, which carried a heightened risk of being associated with fraud, and were out of character with previous account activity. And that this should have prompted Nationwide to ask further questions, which Mr M would have answered truthfully, and that would have led to the scam being uncovered.

The complaint has now been referred to me for review.

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.

Having done so, I've reached the same overall conclusions as the investigator. I haven't necessarily commented on every single point raised but concentrated instead on the issues I believe are central to the outcome of the complaint. This is consistent with our established role as an informal alternative to the courts. In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time.

In broad terms, the starting position at law is that a business such as Nationwide is expected to process payments a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of their account. In this context, *'authorised'* essentially means the customer gave the business an instruction to make a payment from their account. In other words, they knew that money was leaving their account, irrespective of where that money actually went.

In this case, there's no dispute that Mr M authorised the above payments.

There are, however, some situations where we believe a business, taking into account relevant rules, codes and best practice standards, shouldn't have taken its customer's

authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before making the payment.

Nationwide also has a duty to exercise reasonable skill and care, pay due regard to the interests of its customers and to follow good industry practice to keep customers' accounts safe. This includes identifying vulnerable consumers who may be particularly susceptible to scams and looking out for payments which might indicate the consumer is at risk of financial harm.

Taking these things into account, I need to decide whether Nationwide acted fairly and reasonably in its dealings with Mr M.

The payments

I must take into account that many similar payment instructions received by Nationwide will be entirely legitimate. Having considered what it knew about the above payments at the time it received the payment instructions, alongside the comments from Mr M's representative, I'm not persuaded it ought to have been particularly concerned about them.

The payments were used to purchase cryptocurrency but the amounts involved were relatively low. While Mr M doesn't appear to have purchased cryptocurrency from this account before, bank statements show he did make a number of significant payments into and out of the account. Further, the payments weren't part of an ongoing series of payments associated with many types of scam. On balance, I don't think there were sufficient grounds at this stage for Nationwide to think Mr M was at risk of financial harm from fraud and I can't say it was at fault for processing the payments in line with his instructions.

Even if I were to conclude Nationwide should have asked Mr M about the reason for the payments, and while I have no reason to think he wouldn't have answered any questions truthfully, I think it's far from clear the scam would have been uncovered at this point.

First, I'm conscious the circumstances didn't have some of the common features of many types of investment scam. For example, Mr M was introduced to the scheme by a friend rather than responding to an online advert or being contacted out of the blue by someone he'd never met, the scammers ran regular online meetings with 'investors', meaning his interaction with them wasn't limited to just online or voice chats, and he hadn't been asked to make further payments. This means that any warning from the bank setting out the key features of common types of investment scam wouldn't necessarily have resonated.

Further, Mr M's representative has gone into detail explaining why Mr M believed the scheme was genuine. It's emphasised that:

- it was recommended by a friend who'd had some success;
- he watched YouTube videos and attended Zoom meetings about the scheme;
- he found lots of positive articles and testimonials from users;
- the founders appeared professional and had developed a legitimate public profile, appearing in documentaries and news reports;
- they created a sense of community, holding presentations many times per week; and
- also offered Zoom meetings with community leaders who were able to answer questions.

This gives the impression that Mr M was somewhat under the spell of the scammers and I'm not persuaded a warning from Nationwide about the common features of investment scams,

many of which didn't apply to his situation, would have been sufficient to break that spell and stop him making any payments.

I want to be clear that it's not my intention to suggest Mr M is to blame for what happened in any way. He fell victim to a sophisticated scam that was carefully designed to deceive and manipulate its victims. I can understand why he acted in the way he did. But my role is to consider the actions of Nationwide and, having done so, I'm not persuaded these were the cause of his losses.

Recovery of funds

I've also looked at whether Nationwide could or should have done more to try and recover Mr M's losses once it was aware that the payments were the result of fraud.

I understand Mr M first notified Nationwide of the fraud a long time after the payments were made. It's a common feature of this type of scam that the fraudster will move money very quickly to other accounts once received to frustrate any attempted recovery and I don't think anything that Nationwide could have done differently would likely to have led to those payments being recovered successfully after this period of time.

I'm also conscious that Mr M transferred funds to a legitimate cryptocurrency account in his own name. From there, he purchased cryptocurrency and moved it onto a wallet address of his choosing (albeit on the scammers' instructions). If Nationwide tried to recover the funds, it could only have tried to do so from Mr M's own account and it appears all the money had already been moved on and, if not, anything that was left would still have been available to him to access.

In conclusion

I recognise Mr M has been the victim of a cruel scam and I'm sorry he lost this money. I realise the outcome of this complaint will come as a great disappointment but, for the reasons I've explained, I think Nationwide acted fairly and reasonably in its dealings with him and I won't be telling it to make any refund.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 23 April 2025.

James Biles
Ombudsman