

## The complaint

Mr and Mrs N complain that Nationwide Building Society didn't protect them against losing money to a scam.

The loss came from a joint account and Mr and Mrs N have used a representative to bring their complaint. But, for ease of reading, I'll mostly just refer to Mr N, where I also mean both Mrs N and the representative.

## What happened

The background to this complaint is well known to both parties, so I won't repeat everything here. In brief summary, Mr N has explained that between October 2018 and July 2020 he made payments from his joint Nationwide account for what he thought was a legitimate investment with who I'll call 'H'.

The relevant payments are recorded below, all of which went to H. I also note that Mr N's statements show that between January 2019 and April 2020, Mr N received six credits back into his account from H which together totalled around £3,300.

Date	Payment Type	Amount
18 October 2018	Cheque	£20,000
11 December 2019	Cheque	£20,000
8 July 2020	Transfer	£10,000
9 July 2020	Transfer	£10,000

Mr N subsequently came to believe the investment was a scam and sought a refund from Nationwide. Ultimately Nationwide didn't reimburse his lost funds, and Mr N referred his complaint about Nationwide to us. As our Investigator couldn't resolve the matter informally, the case has been passed to me for 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.

Having done so, I've decided to not uphold this complaint for materially the same reasons as those explained by our Investigator. In explaining my reasons, I've focused on what I think is the heart of the matter. If there's something I've not mentioned, it isn't because I've ignored it; I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

### The Cheque Payments

It doesn't seem to be in dispute that the cheques were completed by Mr N with the intention of paying H. And that Nationwide then processed them and debited the account. And whilst the first of the cheques was back in October 2018, the requirement to try to protect customers from fraud and scams is longstanding. But even if it could be shown that H were operating a scam (something I don't think was the case and which I'll come to in greater detail below), I don't think any of the cheque payments (individually or collectively) were so unusual, suspicious or indicative of a potential issue where I can fairly say that Nationwide ought to have done more than they did at the time.

I say this because the established account activity at the time involved numerous payments of similar or greater amounts (including others made by cheque). Our Investigator has already highlighted several of these, so I won't repeat them all. But they include a transfer for £80,000 in May 2018 and a cheque payment of £75,000 later the same month. Against that backdrop and in that context, I don't think it was unreasonable for Nationwide to not do more than they did before processing the cheques. For completeness, the Contingent Reimbursement Model Code (CRM Code) doesn't apply to cheque payments and so isn't a consideration for these payments.

### The Transfers

It isn't in dispute that Mr N authorised the payments he made to H. Because of this, the starting position – in line with the Payment Services Regulations (PSRs) – is that he is liable for the transactions. But he says that he made the authorised push payments (APP) as a result of a scam. And Nationwide had signed up to the CRM Code which provided protection to scam victims in certain circumstances. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam (except in limited circumstances). But the CRM Code only applies if the definition of an APP scam, as set out in it, is met. The definition of an APP scam as set out in the CRM Code is:

*“...a transfer of funds executed across Faster Payments...where: (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.”*

I've therefore considered whether the payments Mr N made fall under the scope of an APP scam as defined above by the CRM Code. Having done so, I don't think they do. I'll explain why. To determine if Mr N has been the victim of a scam, I have to consider if his intended purpose of the payments were legitimate, whether the intended purposes of Mr N and H were broadly aligned and, if not, whether this was the result of dishonest deception on the part of H.

Based on the evidence available to me, it appears Mr N was intending for the funds to be invested in specific building projects. He then expected to receive regular returns on his investment. The paperwork he received prior to investing appeared to be professional and detailed, and H was listed on Companies House as being incorporated since 2011. I see no reason why Mr N would not have thought this was a legitimate investment.

I've gone on to consider whether H's intended purpose for the payment aligned with what Mr N intended. I've seen evidence that three major building projects were completed by H. They also had other projects ongoing, although these had to be sold to other developers after they entered financial difficulty. On balance, I think this supports that H was most likely a legitimate company involved in legitimate building projects and I think it's unlikely a scam company would have completed three large scale building projects at significant cost in order to entice more funds from investors.

Mr N's representatives have said H paid unregulated introducers a high level of commission which in turn made the level of interest offered to investors unlikely. They felt that a credit event was inevitable in the circumstances. However, whether or not unregulated investors were used to introduce the investment does not indicate that H set out to defraud investors of their funds, with no intention to invest the funds into building projects. I've also considered the points raised in a third party's report dated December 2024 as well as everything else Mr N's representatives have submitted. The thrust of the report appears to be that there's no evidence funds were applied for the intended purpose, so it is probable that H was trading fraudulently. But no evidence has been put forward in respect of how the funds were applied or that they weren't used for the intended purpose.

I've also considered the evidence put forward to say H operated a Ponzi scheme. But from the information I've seen, H may have misrepresented certain information, filed incorrect and late accounts, and paid high commissions to introducers, but there is currently no persuasive evidence to say this was most likely done with the intention to scam investors.

In the same period, H was working on and completing property developments across the country, so I don't think these things show H was never intending to use Mr N's funds for the relevant development project(s). It should be noted that the liquidator for H has not provided any evidence to suggest they were acting fraudulently or operating a Ponzi scheme. They are still in the process of investigating a significant number of transactions made from H to various subsidiary companies, due to the way in which the H network was set up. However, at the moment there is no indication that these transactions were made with the intention of hiding these funds and not using them towards development projects.

I'm aware that Mr N's representatives have also referred to a 2020 court judgement which suggests a company which was part of the same group as H traded while insolvent. But this is one company within the group and it's not enough to reach the conclusion that there was an intention for Mr N's funds not to be used for the intended purpose.

On balance, I think H's intended purpose for the funds aligned with Mr N's, and nothing I have seen persuades me that H intended to defraud him. Instead, I think it's more likely this was a failed investment. So I don't think it meets the definition of an APP scam under the CRM Code. I therefore think Nationwide acted reasonably when they treated the case as a civil dispute and didn't refund him under the CRM Code.

Finally, I'm aware that Mr N's representatives seem to be of the view that Nationwide should nonetheless have intervened in Mr N's payments. However, even if I agreed that Nationwide should have done so – and I'm not necessarily saying that I think they should have – that wouldn't be enough to uphold this complaint.

To uphold the complaint and direct a refund, I'd need to be persuaded that any such intervention from Nationwide would most likely have prevented Mr N's loss – in other words, that Nationwide's intervention in Mr N's payments would most likely have prevented him from going ahead with them.

But bearing in mind what I've said above, I'm not persuaded there was anything at the time of Mr N's payments that likely would have made him stop and think he shouldn't proceed because he was being scammed.

As I've said, I haven't seen sufficient evidence now, in 2025, to say H was operating a scam. And I can't fairly find here that any earlier intervention from Nationwide is likely to have altered Mr N's decision at the time to proceed, bearing in mind it wasn't their role to provide investment advice here, only to warn about fraud and scams.

It is possible that further evidence may come to light at a later date, which may indicate H was operating a scam. Should such evidence come to light, then Mr N can complain to Nationwide again, and refer the matter to this office, should he not be happy with the outcome.

### **My final decision**

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N and Mr N to accept or reject my decision before 20 October 2025.

Richard Annandale  
**Ombudsman**