

The complaint

Mr C complains that National Westminster Bank Plc (NWest) won't refund money he paid to an investment.

What happened

What Mr C says:

Mr C was looking at ways to invest money and he was recommended to look at an investment firm (which I will call firm X) by a friend. His friend showed him how it worked; he said he had done well and had made significant withdrawals.

Firm X seemed professional and Mr C became a member of a 'discord channel' – where he could see investors and evidence of firm X's authorisation certificate. Incentives were offered by firm X to attract other investors. All communications with firm X were by WhatsApp, but he also spoke to fellow investors.

Mr C transferred funds to other investors, who then in turn transferred money into his investment account in firm X.

The payment was:

Date	Payment	Amount
24 June 2022	Faster payment – person to person	£13,042

Mr C made some small withdrawals into another bank account - which encouraged him to carry on. He re-mortgaged his house with the intention of getting a 'buy to let', but when the investment opportunity came up, he put the money into firm X instead.

Firm X created a crypto currency. Mr C says the firm then liquidated investors' accounts in exchange for another crypto currency – which then crashed in value, to the extent it became worthless. He thinks firm X may have been operating a 'Ponzi scheme' – so they could pay investors with new investor funds.

Mr C says there wasn't anything online at the time to suggest the investment was a problem. The website was professional and was used by thousands of customers.

As a result of what happened, Mr C has lost a lot of money and he re-mortgaged his house – so he will have to sell his home. He has two young children to support.

Mr C says NWest should have done more to protect him. The bank didn't intervene or warn him. Had they done so, the bank could've asked for the URL of firm X and told him it was a scam. But this didn't happen.

Mr C says NWest should refund the money he's lost plus interest at 8% per annum.

What NWest said:

NWest didn't refund any money and said:

- The payment wasn't flagged on the bank's systems as needing to be checked.
- It was properly authorised by Mr C.
- The bank published warnings about scams and fraud on its website for all customers to see.

Our investigation so far:

Our investigator didn't uphold Mr C's complaint and said:

- The payment was out of character and the bank should've intervened.
- But even if NWest had done so, it wasn't likely to have made a difference - because Mr C was introduced to firm X by a friend; he spoke to other investors; Mr C got some returns from the investment; there weren't any negative reviews; Mr C had been given documents which showed firm X was regulated.
- All NWest could've been expected to do was to suggest that Mr C made further checks – which would've only led him back to the website of the regulator.

Mr C didn't agree. He said that an in-depth conversation with NWest would've revealed that firm X wasn't regulated in the UK and therefore he might lose his money.

Mr C asked that an ombudsman look at his complaint, and so it has come to me.

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.

The starting point here is the nature of the scheme that Mr C was entering into. He has provided evidence to show that he was investing in firm X – which was registered under a Securities Dealer Licence with the Republic of Seychelles. It was regulated by the Financial Services Authority in the Seychelles. It was a company incorporated in the Republic of Seychelles and had a company registration number.

The scheme was said to be 'trading foreign exchange and/or contract for differences on margin...carries a high level of risk and may not be suitable for all investors'.

There were later (in 2023 and 2024) some warnings about firm X's associated companies in other jurisdictions.

In October 2022, the firm announced it would be changing its bitcoin structure; but the new coin subsequently had no value.

In Mr C's complaint, he says this was a scam and /or a Ponzi scheme. But I would note that firm X was a regulated company with a regulator in place. Of course, Mr C can complain to the relevant regulator in this instance.

So the crux of this complaint is – whether NWest could reasonably have been expected to intervene and warn Mr C about the investment he was making.

The starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. 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, I consider NWest should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

I need to decide whether NWest acted fairly and reasonably in its dealings with Mr C when he made the payments, or whether it should have done more than it did. I have considered the position carefully.

The first consideration here is: if the payments were of a sufficient size and were out of character with how Mr C normally used his account – then we would expect NWest to have intervened and spoken to him.

Mr C did make some fairly large payments – I could see he made the following large payments in the 12-month period leading up to June 2022:

October 2021: £49,000

November 2021: £24,260; £10,500

February 2022: £6,694

But accepting that these were one-off and isolated large payments, I think it's reasonable to have expected NWest to have intervened when Mr C made the P2P payment in June 2022.

But – I must consider what NWest could've done had they contacted Mr C. Mr C argues NWest could've been given the web address of firm X and seen that it was a potential scam or Ponzi scheme. But at the time it is the case:

- Firm X was a company properly registered in the Seychelles and regulated in that location.
- There were no online warnings or negative reviews prior to July 2022 or at the time Mr C was making the payments.
- Mr C has shown documentation about the firm, its licencing, and the investment proposal he was entering into.
- He was introduced to the scheme by a friend.
- Mr C was in touch with other investors who were satisfied with the scheme
- There weren't any adverse reviews about it to be found.
- He had got some payments from firm X.

So, even if NWest had intervened and contacted Mr C, it's likely that the bank would've been told this and/or shown the documentation. It looked like Mr C was investing in a credible company. All the bank might have done is encourage Mr C to do further checks – but that would only have only led back to the information I've referred to.

Mr C has argued that NWest could've told him that firm X wasn't regulated in the UK, and the risks of that. That might have been the case, but on the other hand, Mr C did have a lot of other compelling reasons to go ahead. So it's unlikely that this one possible comment would have to stopped him.

And therefore I can't see how NWest would've been able to advise Mr C not to go ahead or questioned the payment.

I also note that NWest weren't acting as Mr C's investment advisers and so had no duty to warn him about the suitability or risks in making the payments or the investment he was making.

Therefore, on the balance of evidence I've seen, I don't hold NWest as liable to refund any money to Mr C.

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. In this case, given that the payment was made in 2022, and Mr C complained to NWest in February 2024 – there was unlikely to be any success. But I have seen that the bank did contact the recipient bank without any success. In this connection, Mr C might wish to contact firm X's regulators.

Mr C has lost a lot of money. He's explained why the money was important to him, and the impact his losses have had. I was sorry to learn of his circumstances. He will therefore be disappointed by my decision, but I'm not going to ask NWest to do anything here.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 5 February 2025.

Martin Lord
Ombudsman