

The complaint

Mrs R complains that Nationwide Building Society (“Nationwide”) hasn’t protected her from losing money to a scam.

What happened

The background to this complaint is well known to both parties, so I won’t repeat everything here. In brief summary, Mrs R has explained that in January 2021 she made a payment from her Nationwide account for what she thought was a legitimate investment with who I’ll call HSG. Mrs R subsequently came to believe the investment was a scam and sought a refund from Nationwide. Ultimately Nationwide didn’t reimburse her lost funds, and Mrs R referred her 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 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.

It isn’t in dispute that Mrs R authorised the payment she made to HSG. Because of this, the starting position – in line with The Payment Service Regulations 2017 – is that she is liable for the transaction. But she says that she made the authorised push payment (APP) as a result of a scam. And Nationwide has signed up to the Contingent Reimbursement Model Code (“the CRM Code”), which provides 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 payment Mrs R made falls under the scope of an APP scam as defined above by the CRM Code. Having done so, I don't think that it does. I'll explain why.

To determine if Mrs R has been the victim of a scam, I have to consider if her intended purpose of the payment was legitimate, whether the intended purposes of Mrs R and HSG were broadly aligned and, if not, whether this was the result of dishonest deception on the part of HSG.

Based on the evidence available to me, it appears Mrs R was intending for the funds to be invested in specific building projects. She then expected to receive regular returns on her investment of 12% over the course of the investment. The paperwork she received prior to investing appeared to be professional and detailed, and HSG was listed on Companies House as being incorporated since 2011. I see no reason why Mrs R would not have thought this was a legitimate investment.

I've gone on to consider whether HSG's intended purpose for the payment aligned with what Mrs R intended. I've seen evidence that three building projects were completed by HSG. They also had other projects ongoing, although these had to be sold to other developers after they entered into financial difficulty. On balance, I think this supports that HSG 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.

Mrs R's representatives have said HSG 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 HSG 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 Mrs R'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 HSG 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 HSG operated a Ponzi scheme. But from the information I've seen, HSG 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, HSG was working on and completing property developments across the country, so I don't think these things show HSG was never intending to use Mrs R's funds for the relevant development project(s). It should be noted that the liquidator for HSG 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 HSG to various subsidiary companies, due to the way in which the HSG 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 Mrs R's representatives have also referred to 2020 court judgement which suggests a company part of the same group as HSG 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 Mrs R's funds not to be used for the intended purpose.

On balance, I think HSG's intended purpose for the funds aligned with Mrs R's, and nothing I have seen persuades me that HSG intended to defraud her. 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 it treated the case as a civil dispute and didn't refund her under the CRM Code.

Finally, I'm aware that Mrs R's representatives seem to be of the view that Nationwide should nonetheless have intervened when Mrs R made her payment in 2021. However, even if I agreed that Nationwide should have done so – and I'm not necessarily saying that I think it 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 Mrs R's loss – in other words, that Nationwide's intervention in Mrs R's payment would most likely have prevented her from going ahead with it.

But bearing in mind what I've said above, I'm not persuaded there was anything at the time of Mrs R's payment that likely would have made her stop and think she shouldn't proceed because she was being scammed. As I've said, I haven't seen sufficient evidence now, in 2025, to say HSG was operating a scam. And I can't fairly find here that any intervention from Nationwide in this payment in 2021 is likely to have altered Mrs R's decision at the time to proceed with it, bearing in mind it wasn't its 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 HSG was operating a scam. Should such evidence come to light, then Mrs R can complain to Nationwide again, and refer the matter to this office, should she not be happy with the outcome.

My final decision

For the reasons explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 13 August 2025.

Neil Bridge
Ombudsman