

## **The complaint**

Mrs G complains NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY ("NatWest") did not reimburse her £4,500 which she says she lost to an investment scam.

## **What happened**

Mrs G was informed about an investment opportunity by her financial mentor with a company I will refer to as "V".

Interested, Mrs G spoke with some other investors who appeared to have successful investments and who had already been able to withdraw returns. Mrs G also received brochures and FAQs in relation to V. After checking the company website and looking V up online, Mrs G decided to invest and transferred £4,500 from her NatWest account over a series of two payments on 17 March 2023. Mrs G also invested from another account of hers held with a third-party bank. This investment forms the subject of a separate complaint.

Mrs G was also able to withdraw £1,000 from her account at V after a three-month holding period. However, sometime later, Mrs G was told that the FCA had halted all withdrawal processes at V and she received no further returns.

Mrs G raised a scam claim with NatWest but NatWest declined to offer Mrs G a refund of the amount she had lost. It felt Mrs G's circumstances amounted to a civil dispute between her and V.

Unhappy with NatWest's response, Mrs G referred her complaint to our service and one of our investigators looked into things.

The investigator thought it was more likely than not that V was operating as a scam. They therefore assessed the complaint under the Lending Standards Board's Contingent Reimbursement Model ("CRM") Code and said they didn't think any of the exceptions to reimbursement as set out in The Code could fairly be applied to Mrs G's circumstances.

They therefore recommended a full refund of the £4,500 lost from Mrs G's NatWest account minus £225 to take into account the portion of these funds that had been returned after the supposed holding period, as well as 8% simple interest from the date NatWest declined Mrs G's complaint under the CRM Code to the date of settlement.

Mrs G accepted the investigators findings but NatWest did not. It felt the complaint should be held under R3(1)(c) of the CRM Code, as there was an ongoing investigation into V's activities being carried out by the Financial Conduct Authority ("FCA"). It therefore felt our service should wait until the investigation being carried out by an official body was concluded.

As an informal agreement could not be reached, the complaint has been passed to me for a final 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.

### *Is it appropriate for me to determine this complaint now?*

I have considered whether it would be appropriate to delay my decision in the interests of fairness whilst the FCA investigation into the activities of V is still ongoing.

There may be circumstances and cases where it's appropriate to wait for the outcome of external investigations. But that isn't necessarily so in every case, as it may be possible to reach conclusions on the main issues on the basis of evidence I already available.

In order to determine Mrs G's complaint, I have had to ask myself whether, on the balance of probabilities, the available evidence indicates that it's more likely than not that she was the victim of a scam rather than a failed investment. But I wouldn't proceed to that determination if I consider fairness to all parties demands that I delay doing so.

I'm aware that Mrs G first raised her claim with NatWest in February 2024 and I need to bear in mind that this service exists for the purpose of resolving complaints quickly and with minimum formality. With that in mind, I don't think delaying giving Mrs G an answer for an unspecified length of time would be appropriate unless truly justified. And, as a general rule, I'd not be inclined to think it fair to the parties to a complaint to put off my decision unless, bearing in mind the evidence already available to me, a postponement is likely to help significantly when it comes to deciding the issues.

I'm aware the above processes might result in some recoveries for V's investors; in order to avoid the risk of double recovery, I think NatWest would be entitled to take, if it wishes, an assignment of the rights to all future distributions to Mrs G under those processes in respect of this investment before paying anything I might award to Mrs G on this complaint. However, for the reasons I discuss further below, I don't think it's necessary to wait for the outcome of the FCA's investigation for me fairly to reach a decision on whether NatWest should reimburse Mrs G under the provisions of the CRM Code.

### *Has Mrs G been the victim of an APP scam, as defined in the CRM Code?*

It isn't in dispute that Mrs G authorised the payments under discussion here. Because of this the starting position – in line with the Payment Services Regulations 2017 – is that she's liable for the transactions in the first instance. However, that isn't the end of the story.

NatWest has signed up to the voluntary CRM Code, which provides additional protection to scam victims. 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. I have set this definition out below:

*...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.*

The CRM Code is also explicit that it doesn't apply to private civil disputes. The wording in The Code is as follows:

*"This Code does not apply to:*

*b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."*

I've therefore considered whether Mrs G's circumstances meet the definition of an APP scam as set in the CRM Code above. Having done so, I think that they do. I'll explain why in more detail below.

This service is now aware of a number of issues related to V which suggest it is more likely than not that it was operating as a scam:

- V's claims of it being (at least) in the process of being regulated with relevant bodies such as the FCA in the UK and the CSSF in Luxembourg are false.
- There is no evidence to substantiate V's claims around the profits it says it was able to generate via Forex trading.
- It appears that less than half of the funds sent by potential investors to the scheme were used for the intended purpose of Forex trading. Whereas it was Mrs G's understanding that her funds would be moved to a trading account to be used in Forex trading straightaway.
- V's account provider has shown that when V applied for accounts it lied at least twice, this was about partnering with a trading exchange and that it was regulated.
- We have also seen evidence that none of the funds sent to V's business accounts were used for the intended purpose of trading in Forex.

Considering all of the above, I do not think V was using investor funds, such as Mrs G's £4,500, for the purpose they were intended for. And I think this difference in purpose is down to dishonest deception on V's part. It follows that I think this complaint meets the definition of an APP scam as set out in the CRM Code above.

So, returning to the question of whether in fairness I should delay reaching a decision pending developments from external investigations, I have explained why I should only postpone a decision if I take the view that fairness to all parties demands that I should do so.

In view of the evidence already available to me as set out above, I don't consider it likely that postponing my decision would help significantly in deciding the issues. Regarding, the FCA's investigations, there is no certainty as to what, if any, prosecutions may be brought in future, nor what, if any, new light they would shed on the evidence and issues I've discussed here. And, as I've set out above, I'm satisfied I already have enough available evidence to decide that Mrs G's circumstances, on the balance of probabilities, meet the definition of an APP scam as defined by the CRM Code.

#### *Is Mrs G entitled to reimbursement under the CRM Code?*

I've then gone on to consider whether NatWest should refund Mrs G under the provisions of the CRM Code. There are generally two exceptions to reimbursement within the Code:

- Mrs G ignored an 'Effective Warning'

- Mrs G made the payments without a reasonable basis for believing that they were for genuine goods or services; and/or V was legitimate.

NatWest has said it didn't provide a warning for either of the payments Mrs G made from her NatWest account as they did not flag on its fraud detection systems. Because of this, NatWest hasn't demonstrated Mrs G ignored an effective scam warning for the purposes of the CRM Code. So, there is no exception to full reimbursement in relation to this point.

I have then considered whether Mrs G had a reasonable basis to believe V were legitimate and were providing a genuine investment product at the time she made these payments. In doing so, I have taken into account that Mrs G had:

- spoken with investors who had already successfully received returns
- attended seminars where she was able to meet the directors of V personally
- received professional and convincing product literature
- been recommended the investment by someone she considered a financial mentor
- been able to look up V online and not seen anything untoward
- viewed a professional looking website and had access to an online portal that looked to be genuine

Mrs G hasn't clearly said what she expected the returns on her investment to be, and it appears some investors were told they could receive high levels of returns. But considering all of the other points above, I think there was enough to reasonably convince Mrs G that this was a genuine investment she could trust. With this in mind, I don't think Mrs G made the payments without a reasonable basis of belief that V and the investment itself was genuine. I therefore do not think NatWest can apply an exception to reimbursement, so it should reimburse Mrs G in full - minus a proportionate deduction for returns received which I will detail below.

### **Putting things right**

NatWest should reimburse Mrs G the £4,500 she lost to this investment scam minus £225. I have recommended a deduction of £225 as this represents a portion of the returns Mrs G received as part of her involvement with V. Any further returns received by Mrs G will be considered as part of a separate complaint.

NatWest should also apply 8% simple interest from the date of the investigator's view to the date of settlement.\* I say this because the information our service has relied upon to uphold Mrs G's complaint was not readily available to NatWest when the scam claim was first raised. So, it's likely NatWest would not have been able to identify the issues that led to the complaint eventually being upheld when the complaint was first raised.

\*If NatWest considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs G how much it's taken off. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

For the reasons given above, I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or

reject my decision before 10 July 2025.

Emly Hanley Hayes  
**Ombudsman**