

The complaint

Mr D complains that NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY (NatWest) has not refunded the money he lost to what he believes was a scam.

What happened

In 2021 Mr D invested in a business involved in property developments, which I'll call T. T later went on to change its name, but I will call it T throughout this decision for simplicity. Mr D had been introduced to this opportunity by a relative of an acquaintance, this person worked for a firm that introduced people to alternative investment schemes.

Mr D made two investments of £10,000 each and received bond certificates stating that his investment would be returned, plus 12% interest per annum, when the bonds matured two years later. Ultimately though, T began to experience difficulties. In 2023 it issued several updates about its financial affairs and subsidiaries of T have since gone into administration. Mr D received one small payment from T, but otherwise has not received any returns on his investment, nor has his capital been returned.

Mr D contacted NatWest to say he believed he had been the victim of a scam and to ask for his loss to be refunded. NatWest looked into what had happened but did not consider it was liable for his loss, it considers this to be a civil dispute between Mr D and T, not a scam.

Unhappy with NatWest's response, Mr D brought the complaint to this service and one of our investigators looked into things. But having thought carefully about the evidence available, they thought that this was most likely a civil dispute, meaning that Mr D would not be entitled to a refund of his loss.

Mr D remained unhappy, he maintains that he was misled about the investment. As no agreement could be reached, this 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 and having thought very carefully about all the evidence provided by both parties, I agree with the findings set out by our investigator. I do appreciate how disappointing this will be for Mr D but, whilst I'm sorry to hear of what's happened, and appreciate the significant impact this has had on him, I don't think I can fairly hold NatWest liable for his loss.

This is because not all cases where individuals have lost sums of money are in fact fraudulent and/or a scam. So, whilst I understand that Mr D feels he has been the victim of fraud, there is a high legal threshold or burden of proof for fraud and there are a number of potential reasons (other than fraud or a scam) for a dispute to exist between two parties.

When considering what is fair and reasonable in this case, I've thought about the Contingent Reimbursement Model Code (the CRM Code) which NatWest has signed up to and which was in force at the time the relevant payments were made. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam. So, I've thought about whether the CRM code applies in the circumstances of this complaint, and whether NatWest therefore ought to reimburse Mr D under the provisions of the CRM Code.

The CRM Code only applies in very specific circumstances – where the customer has been the victim of an APP (authorised push payment) scam. Under the CRM Code, an APP scam is defined as:

“...a transfer of funds...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 quite explicit that it doesn't apply to all push payments. It says:

“DS2(2) 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.”

Fraudulent isn't defined in the CRM Code, but as the CRM Code specifically excludes civil disputes, I think I need to consider, as a first step, whether this was a scam (where a scammer takes money from a customer for no legitimate purpose) or a civil dispute (where a payment is made to a legitimate trading company or business, but there is some dispute about the goods or services that should have been supplied).

If this was a scam, or fraud – then banks (including NatWest) must follow industry and regulatory guidance, including the CRM Code, to check certain payments and in some circumstances, protect customers by stopping the payments and contacting customers about them. And where banks haven't followed the guidance, they can be asked to refund them. But where payments are made to a legitimate business for a legitimate reason, then such principles don't apply. This is then classed as a civil dispute, and for which banks normally have no liability.

Having thought very carefully about all that Mr D has said, and about the evidence provided by all parties to this complaint, I'm not persuaded that I can safely say with any certainty, based on what I know and what the evidence shows, that T set out with an intent to defraud Mr D.

I say this for the following reasons:

- T appears to have been a legitimate business, which was registered on Companies House, and which had been in operation for several years at the time Mr D invested in it.
- There is evidence to show that T did carry out various activities relating to the development that Mr D was investing in.
- I have not seen any evidence to show that Mr D's funds were misused in any way.
- The paperwork Mr D received regarding his investment made it clear that it was a

high-risk investment and that there was a possibility Mr D would lose his money.

- There is clear evidence to show that T began to have financial difficulties which affected its ability to meet its obligations to investors.

With all of this in mind, I consider that T was most likely attempting to operate as a legitimate business at the time Mr D made his investments. I acknowledge that Mr D ultimately did not receive the returns he was promised, but there are many reasons, other than fraud, why a legitimate business may be unable to meet its obligations. A business may act unprofessionally but still be carrying out legitimate business, or it may begin to experience financial difficulties which mean it cannot meet its commitments. And this service isn't in a position to forensically analyse T's actions here; we must consider the evidence that is before us. And, in doing so, I've not seen persuasive evidence that T set out to defraud Mr D.

I know this will be a huge disappointment to Mr D, but for the reasons I've explained above, I do not consider that the payments in dispute here are covered under the CRM Code, or that it would be fair to hold NatWest responsible for the money lost under any of the other relevant regulations or guidance.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 31 July 2025.

Sophie Mitchell
Ombudsman