

The complaint

Mr H and Mrs H complain that Nationwide Building Society (NW) won't refund money they say was lost in an investment scam.

What happened

What Mr H and Mrs H say:

Mr H and Mrs H were retired. In 2019, they received an email from a well-known vacation rental company saying there was an investment opportunity. The email looked authentic and genuine.

The prospective returns were said to be good. Mr H subscribed to an investment magazine and in it the investment in the rental company was said to be attractive. Mr H corresponded with the sender of the email for two to three weeks and he appeared knowledgeable and professional.

Mr H was asked to make an investment for the purchase of shares – the cost was just over £9,000. This he paid – the payee was an investment 'firm X':

Date	Payment	Amount
23 January 2019	Faster payment to firm X	£9,305

He was then asked to pay a further £10,000 for more shares and became suspicious. He went to the head office of the vacation rental company and was told it must be a scam.

Mr H and Mrs H were devastated to find this out. As a result, they lost most of their retirement savings. They no longer have a safety net to fall back on. They feel their future is uncertain. They continue to be stressed, worried and taken advantage of.

Mr H and Mrs H say NW should've done more to protect them. They say the payment was unusual for them to make and should've flagged up in NW's systems for checks. NW should have stepped in and questioned what they were doing – if they had, the scam would've been prevented.

Mr H and Mrs H say NW should refund the money they've lost plus interest at 8% and compensation of £300.

What NW said:

NW looked into Mr H and Mrs H's fraud claim in 2019 and at that time said firm X was an American multinational investment bank headquartered in New York.

When Mrs H and Mrs H brought their complaint to NW again in January 2024, the firm looked at it again and concluded that firm X was registered and authorised in the UK by the

Financial Conduct Authority (FCA). It also had offices in several countries around the world. So, there wasn't anything to suggest that there was a fraud or scam taking place. NW said this was a civil claim and not a scam.

Our investigation so far:

Mr H and Mrs H brought their complaint to us through a third-party claims firm. Our investigator didn't uphold it and concluded this was a civil matter and not a scam. She said there was evidence to suggest that firm X was a regulated and genuine firm.

Mr H and Mrs H didn't agree and asked that an ombudsman look at their complaint. They showed a document dated March 2024 – in which firm X put out a warning that there had recently been incidents of parties falsely claiming to be associated with firm X and for customers to be wary of such illegal activities.

They said the behaviour of the contact was typical of a scammer – promises of high returns too good to be true; requests for a substantial up-front payment; high pressure sales tactics and the failure to make any payments. This was evidence a scam was taking place.

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.

I noted that with the passage of time, evidence of what took place is limited – I've seen no emails or social media communications between firm X and Mr H and Mrs H, for example. So, I can't see what the alleged scammer said to them or the promises he made. I have only seen a share purchase confirmation letter from firm X and a share purchase note.

As a first step, I need to decide whether this was a scam (where a scammer takes money from a customer with no intention of providing any services or returning the money to them) or a civil dispute (where a payment is made to a legitimate trading company or business, but the promised services or products don't materialise, or are sub-standard).

If this was a scam – then banks (including NW) must follow industry and regulatory guidance to check certain payments and in some circumstances, protect customers by stopping the payments and contacting them. And where banks haven't followed the guidance, they can be asked to refund them. This is called 'Authorised Push Payments' guidance (APP).

To give an idea, typical scams are commonly perpetrated by criminals through illegal call centres - for example, scams relating to online banking, or tricking customers into transferring funds to a 'safe account', and romance, investment or tax payment scams using social media.

But where payments are made to a valid business for work to be done, or an investment made, then such principles don't apply. This is then classed as a civil dispute, and for which banks normally have no liability.

I therefore looked at Mr H and Mrs H's complaint with this in mind. I can see this is a 'civil' dispute between them and firm X. I say that as I can see:

- Firm X trades as a multinational investment bank and financial services company headquartered in New York City, registered and authorised in the UK by the FCA. Firm X's FCA registration dates from 2001.

- It has offices around the world.
- There weren't any regulatory warnings about firm X at the time (e.g. by the FCA).
- I looked at firm X's presence online – and there are no warnings about a scam taking place back in 2019 (or up to 2024).
- In September 2024 – there were legal proceedings against an employee who was allegedly operating a 'Ponzi' scheme. But – as that is five years later, I discount that as being possible evidence of a scam taking place in 2019.
- I considered the evidence provided by Mr H and Mrs H about the warning put out by firm X in March 2024 – which said there were clone firms apparently operating under the same name, and these are scams. But – as this is five years after the disputed payment was made, I cannot say these were operating in 2019.

So there are no reasonable signs that firm X (or a clone of it) was operating a scam operation in 2019. If NW had intervened in the payment for £9,305 in January 2019 – I must consider what the firm could've reasonably said to Mr H and Mrs H based on the available information at the time. And – as there was no information available at that time that suggested there was a scam taking place, I don't think I can reasonably have expected NW to have concluded this was a scam, or to have advised Mr H and Mrs H to not make the payment.

I also note that NW weren't acting as Mr H and Mrs H's financial advisors and so had no duty to consider the suitability of such an investment.

Therefore, on the balance of evidence I've been provided with, I do not hold NW liable to refund any money to Mr H and Mrs H.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and Mrs H to accept or reject my decision before 22 May 2025.

Martin Lord
Ombudsman