

## The complaint

Mr and Mrs T complain that National Westminster Bank Public Limited Company ('NatWest') won't reimburse them after they sent funds towards an investment, that they now consider to have been a scam.

Mr and Mrs T are professionally represented in bringing their complaint, but for ease of reading I'll largely refer to all submissions as being made by Mr and Mrs T directly.

## What happened

Mr and Mrs T have explained that between around September 2017 and January 2020, they sent funds in the form of loan notes to a property development investment firm I'll refer to as 'H', as well as other firms, totalling over £100,000.

Mr and Mrs T were told they would receive annual interest of 12% on their investment. It seems Mr and Mrs T did receive around £10,180 in returns, however nothing has been received since 2020 and H has now entered liquidation.

Believing they had fallen victim to a scam, Mr and Mrs T raised a claim with their bank, NatWest. NatWest considered their claim but didn't uphold it. It said that the majority of payments were made over six years ago and therefore weren't within the bank's remit to now investigate. NatWest also declined to reimburse Mr and Mrs T for payments made within the last six years, as it considered this complaint was a civil dispute between Mr and Mrs T and H, rather than a scam.

Mr and Mrs T remained unhappy and referred their complaint to our service. An Investigator considered the complaint. He sought clarification on what payments Mr and Mrs T's representatives were complaining about, as total losses quoted within their complaint didn't align. He also asked if Mr and Mrs T's representatives were wishing to complain about payments made more than six years ago and requested that if so, it provides a timeline of when Mr and Mrs T became aware of an issue with their investments.

Mr and Mrs T's representatives didn't elaborate on what payments they were wishing to be reimbursed on, but did state that Mr and Mrs T were 'happy for [us] to consider the payments that are within [our] jurisdiction when considering the timing of the payments.' The investigator therefore considered only one payment made to H in 2020 as part of his investigation.

The Investigator also didn't think that there was enough evidence to conclude that H was conducting a scam – that is, that H never intended to provide the returns it set out to Mr and Mrs T at the time they made their payments.

Mr and Mrs T disagreed with the investigator's view. To summarise, they said the following:

- They consider our service's threshold test for intervention by NatWest is misdirected and that we have failed to give appropriate weight to evidence provided that indicates H was a Ponzi scheme.

- It provided a report from a forensic accountant, who established that fraud had probably occurred.
- One of the companies within H was raising money when insolvent, and ‘funneling off’ money to other projects.

Mr and Mrs T’s representatives also questioned why other payments made that were complained about weren’t included in the view. The Investigator replied, reminding the representatives of their previous agreement for these payments to not be included, and questioning if the representative now wished for these to be considered. No response to this question was received.

As part of my own investigations, I therefore also contacted Mr and Mrs T’s representatives asking for it to clarify if further payments should be considered, and requesting evidence if so of when Mr and Mrs T became aware of a concern regarding these payments. However I also did not receive a response within the timeframes provided and therefore will only be considering the final payment Mr and Mrs T made to H that was within the last six years.

I also confirmed with Mr and Mrs T’s representatives that they have been provided with a response to their additional information provided following the Investigator’s view on several other cases regarding H and that I therefore didn’t intend to cover this again in detail within my decision.

As Mr and Mrs T remain unhappy, I’ll now issue my 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.

In deciding what’s fair and reasonable, I’m required to take into account relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – in other words on what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

In broad terms, 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. But there are circumstances when it might be fair and reasonable for a firm to reimburse a customer even when they have authorised a payment.

Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an authorised push payment (APP) scam, except in limited circumstances. But it specifically excludes private civil disputes.

In order to determine that NatWest is responsible for Mr and Mrs T’s losses and for it to refund them, I’d first need to be satisfied, based on the available evidence, that the losses they have incurred were as a result of a scam. I’d therefore need to determine that H’s reason for procuring the payments was fraudulent. This would mean being persuaded that H had criminal intent at the time it received Mr and Mrs T’s payments to defraud them. This is,

understandably, a high bar to meet. Based on everything I've seen, I don't think there is currently enough evidence to support this claim. I've explained why in more detail below.

To determine if Mr and Mrs T have been the victims of a scam, I have to consider if their intended purpose for payment was legitimate, whether the intended purposes of Mr and Mrs T and H were broadly aligned and, if not, whether this was the result of dishonest deception on the part of H.

Based on the evidence available to me, it appears Mr and Mrs T were intending for their funds to be invested in specific building projects. They then expected to receive regular returns on their investment of around 12% over the course of the investment. They've said they received paperwork prior to investing which appeared to be professional, as well as hard backed brochures that set out their projects. Mr and Mrs T were also introduced to H via a third party firm. I see no reason why Mr and Mrs T would not have thought this was a legitimate investment and that their payments were going towards property development.

I've therefore gone on to think about what purpose for procuring payments H likely had in mind. In doing so, I've considered the following:

- H *did* complete several development projects in the UK, as well as working on others that it went on to sell during financial difficulty. I would find it unusual for a company operating a scam to complete on several projects, each requiring large amounts of funding to do so.
- Mr and Mrs T have questioned the commission paid by H to introducers as being unusually high, and with returns on top to investors, argued that these terms were never going to be honoured. However, the use of introducers does not indicate that H never intended to pay investors as stated, or that it didn't intend to invest funds received into building projects.
- It is my understanding that H's liquidator is still investigating thousands of transactions made by H, but it's so far not provided our service with anything that would suggest H was operating a Ponzi scheme, or that investor's funds were moved between accounts or companies with the intention of not using them towards developments.
- Regarding the forensic account provided, it's important to note that this was conducted without access to banking or accounting records and therefore appeared to focus on the point that there's no evidence that funds were used for their intended purpose. However, there's also no evidence put forwards about how these funds *were* applied, or that it wasn't for the intended purpose. I therefore don't think this evidence is sufficient to demonstrate an intent to scam.
- While there is evidence that one company within H's group traded while insolvent, this is not sufficient to determine that the group acted with intent to defraud, or that funds weren't used for their intended purpose.
- I'm sorry that Mr and Mrs T don't consider we've given enough weight to evidence what they feel demonstrates this was a Ponzi scheme, rather than a failed investment. While I agree that evidence provided suggests there may have been poor business or financial management, I can't agree it amounts to an intent to scam. In relation to our threshold for NatWest to intervene, it's important to consider causation and whether intervention would have even made a difference here, which seems improbable, based on what information NatWest would have had available to it at the time, particularly when - even with the benefit of hindsight and further

liquidator reports - I'm unable to conclude that a scam has taken place.

Therefore while I'm sorry to disappoint Mr and Mrs T, I don't think the evidence currently available is sufficient to demonstrate that H set out with an intent to defraud Mr and Mrs T. I therefore can't conclude that NatWest is responsible for their losses. It is possible that further evidence may come to light at a later date, which may indicate H was operating a scam. Should such evidence come to light, then Mr and Mrs T can complain to NatWest again, and refer the matter to our service, should they not be happy with the outcome.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T and Mrs T to accept or reject my decision before 6 January 2026.

Kirsty Upton  
**Ombudsman**