

## The complaint

Mr B complains that Nationwide Building Society has unfairly refused to refund his losses after he fell victim to a scam.

Mr B is represented in his complaint by a professional third party but for ease I will refer to Mr B throughout.

## What happened

In July 2022, Mr B contacted someone he had found through social media who was promoting a cryptocurrency investment opportunity.

Mr B says he made an initial investment of £500 to open his account. After making the payment, Mr B was able to see his grow on a trading platform, so he continued to make payments. He realised that he may have been the victim of a scam when he was asked to pay additional sums to withdraw his investment.

Mr B was also contacted by another individual who persuaded him to invest with another business. After building up a rapport with the individual, Mr B decided to invest. Again, he says he realised he had been scammed when he tried to withdraw funds and was asked to pay withdrawal fees.

Mr B made the following disputed payments to L, a cryptocurrency merchant and S, a digital wallet provider linked to cryptocurrency trading. The funds were then sent on to the scammers to be invested:

No.	Date	Type of transaction and merchant	Amount £
1	30 July 2022	Faster payment – L – crypto merchant	500
2	30 July 2022	Faster payment – S – digital wallet	2
3	30 July 2022	Faster payment – S – digital wallet	301
4	3 August 2022	Faster payment – L – crypto merchant	1,250
5	3 August 2022	Faster payment – S – digital wallet	4,200
6	5 August 2022	Faster payment – L – crypto merchant	4,100
7	8 August 2022	Faster payment – L – crypto merchant	4,400
8	8 August 2022	Faster payment – L – crypto merchant	1,000
9	9 August 2022	Faster payment – S – digital wallet	10,000

10	9 August 2022	Faster payment – S – digital wallet	7,000
11	11 August 2022	Faster payment – S – digital wallet	600
12	12 August 2022	<i>Faster payment in – S – digital wallet</i>	900
13	13 August 2022	<i>Faster payment in – S – digital wallet</i>	700
14	13 August 2022	<i>Faster payment in – S – digital wallet</i>	1,000
15	17 August 2022	Faster payment – S – digital wallet	850
16	22 August 2022	Faster payment – S – digital wallet	9,001
17	2 August 2022	<i>Faster payment in – S – digital wallet</i>	500
18	25 August 2022	Faster payment – S – digital wallet	11
19	27 August 2022	Faster payment – S – digital wallet	850
20	7 September 2022	<i>Faster payment in – S – digital wallet</i>	29

### *Our investigation so far*

Our investigator didn't uphold Mr B's complaint. In summary, she didn't think payments 1 - 4 were particularly unusual or suspicious when compared to Mr B's usual account activity.

Our investigator thought that when Mr B made payment 5, Nationwide should have intervened because it was the second cryptocurrency related payment of the day taking the combined total to over £5,000. Our investigator thought that a proportionate intervention should have involved Nationwide speaking to Mr B.

Although Nationwide didn't speak to Mr B at payment 5, it did so when he made payment 6 two days later. Nationwide's notes of the conversation say that Mr B confirmed he had researched the investment platform and had reached out to friends for support before investing. Mr B confirmed he had not spoken to anybody offering him advice, had set the account up himself and was happy to continue with the transaction. So, our investigator thought it fair that Nationwide was reassured enough to release the payment. She thought that as Mr B had confirmed that payment 5 was genuine, it was reasonable for Nationwide to allow further payments to go through without intervening.

Our investigator noted that Nationwide contacted Mr B on 11 August 2022 (payment 11) after it flagged the transaction as potentially suspicious. However, during the call, Mr B confirmed he was trading in cryptocurrency using money from a house sale. Nationwide's records say that Mr B confirmed he hadn't received any cold calls, was not operating on any advice and had not been asked to give inaccurate information to Nationwide. Mr B also said he hadn't been asked to install any third-party software.

Overall, our investigator thought that based on Nationwide's attempts to intervene, it was reasonable to allow the payments to proceed. And that even if Nationwide had intervened on other transactions, it is likely that Mr B would have continued to give the same responses. Meaning that the payments would have been released.

Our investigator didn't think that Nationwide could have recovered any funds as the payments went to accounts in Mr B's control. So, if any funds had remained, Mr B could have accessed them.

Mr B disagreed with the investigation outcome. In summary, he said he was telling the truth when he told Nationwide that he was making the payments to invest in cryptocurrency and that as soon as he gave this information, Nationwide should have probed him further.

Our investigator responded to say that she still thought Nationwide's interventions were proportionate and that it's not possible to fully interrogate customers each time they make a payment.

As Mr B doesn't agree with the investigation outcome, his complaint has come to me to make 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.

I am very sorry that Mr B has lost money in a cruel scam. I need to decide whether it would be fair and reasonable for Nationwide to be held responsible for this loss – either in part or whole.

The Contingent Reimbursement Model (CRM) Code doesn't apply in this case because Mr B made the payments to accounts held in his own name. So I can't consider the provisions of the CRM Code in respect of vulnerability.

Mr B doesn't dispute authorising the transactions, so the starting point under the relevant regulations (in this case, the Payment Services Regulations 2017) together with the terms of Mr B's account, is that he is responsible for payments he's authorised himself, but this is not the end of the story.

Taking into account longstanding regulatory expectations and requirements and what I consider to have been good practice at the time, Nationwide should fairly and reasonably have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances – as in practice all banks, including Nationwide, do.

I consider Nationwide should fairly and reasonably:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – as in practice all banks do; and
- have been mindful of – among other things – common scam scenarios, the evolving fraud landscape (including for example the use of multi-stage fraud by scammers)

and the different risks these can present to consumers, when deciding whether to intervene.

*Should Nationwide have recognised that Mr B was at risk of financial harm from fraud?*

In the context of Mr B's account and Nationwide's responsibilities, payments 1- 4 don't seem sufficiently out of the ordinary for his usual spending to have prompted Nationwide to intervene.

I agree with our investigator that Nationwide should have intervened when Mr B made payment 5. It was the second payment made in the same day to a merchant linked to cryptocurrency trading. As this didn't happen, I need to consider whether a proportionate intervention by Nationwide at payment 5 would have prevented Mr B's subsequent loss. I am sorry to disappoint Mr B, but like our investigator, I don't agree that it would have made a difference and will explain why.

Nationwide did intervene on the next transaction – payment 6. Although it does not have a recording of this call, Nationwide has supplied notes of what was discussed. Given the time which has passed since making the call, it is understandable that Nationwide can't make the recording available. According to the notes of the conversation, Mr B confirmed that although he was new to L, he had carried out a lot of research into the platform and had reached out to friends for support before investing. Mr B said he had set up the account himself and hadn't spoken to anybody offering advice or brokerage.

I understand Mr B's position that Nationwide should have asked more probing questions of him once he said he was investing in cryptocurrency. However, while there are known fraud risks associated with cryptocurrency, this does not mean that all transactions involving cryptocurrency are related to scams. And Nationwide has to strike a balance between allowing customers to use their account and stopping and questioning transactions. I think that by discussing possible third party involvement with Mr B, Nationwide did enough to explore whether he was being guided by a scammer to invest. Mr B said he had carried out his own research and taken advice from friends. Based on this response, it seems reasonable that Nationwide released the payment. And if it had spoken to him on payment 5, it seems likely that Mr B would have given a similar answer. So, I can't fairly find that a failure to intervene on payment 5 would have prevented Mr B's subsequent loss.

Given Mr B's explanation about payment 6, I agree with our investigator that it was reasonable for Nationwide to process payments 7 – 10 without further intervention.

When Mr B made payment 11 as part of the scam, Nationwide's fraud prevention systems were triggered and a conversation between Mr B and Nationwide took place by phone. Although we don't have a recording of the call, Nationwide has provided a note of the conversation. In summary, Mr B confirmed during this call that he was not being asked by anyone else to make the payments and that he had discussed the investment with family members. Mr B said he was funding the investment with the proceeds of a house sale and had not been asked to lie about the investment or download third party software. In reality, Mr B says that he had been coached by the scammer to lie about the investment.

It's not clear why Mr B was not honest when he spoke to Nationwide about payments 6 and 11, but I think it reasonable to say that even if Nationwide had spoken to Mr B when he made the other payments, he would have continued to give misleading answers as the scammer had coached him to do. This would have made it difficult for Nationwide to uncover the scams which were taking place.

Taking the above into consideration, I don't think Nationwide missed an opportunity to

prevent the scams from taking place. And I don't have evidence to suggest that Nationwide was aware of Mr B's vulnerable circumstances at the time. So, I don't find it responsible for his loss.

#### *Recovering the payments Mr B made*

Mr B made payments via bank transfer. This meant that Nationwide had limited options available to it for recovery. Nationwide could ask the business to refund any amount that remained in the receiving account. But Mr B made payments to accounts held in his own name before forwarding them as part of the scam. So, any funds which remained with the payee would remain in Mr B's control.

With the above in mind, I don't think Nationwide had any available options to recover the payments on behalf of Mr B.

#### **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 B to accept or reject my decision before 18 June 2025.

Gemma Bowen  
**Ombudsman**