

## **The complaint**

Mrs B has complained that Nationwide Building Society ('Nationwide'), who she has an account with, has refused to refund the money she lost when she fell victim to a scam.

Mrs B's complaint was brought to us through a representative but for ease I will be referring to Mrs B in my decision.

## **What happened**

Mrs B decided to invest in a foreign exchange fund run by a company I will refer to as H, after her husband was approached about it by an acquaintance of theirs- Mr B1. She signed an agreement with H in September 2018 whereby she agreed to invest £30,000 for a minimum of 12 months. Under the agreement she would receive a 5% interest payment each month.

Mrs B made three £10,000 payments on 27 September 2018 from her Nationwide account to an accountant's firm (M) who said it was acting on behalf of H. Between October 2018 and March 2019 Mrs B received £10,500 by way of interest payments but the payments then started to get delayed so she raised concerns. H went into voluntary liquidation in 2019 owing several million pounds to investors. Mrs B's loss was £19,500.

In June 2024 Mrs B complained to Nationwide and said it should have done more to protect her from falling victim to fraud. She said the information she had been provided with by H and its agents was misleading and that they attempted to present unregulated and high-risk investments, such as this one, more favourably and even suggested that they were subject to regulation by the Financial Conduct Authority (FCA). Mrs B added that she is not an experienced investor and that the payments were out of character for this account. She said Nationwide failed to provide any warnings and didn't carry out adequate checks to identify the recipient bank account, especially given the size of the payments. Mrs B asked to be reimbursed for her losses plus interest as well as compensation for the distress and inconvenience she suffered.

Nationwide rejected the complaint and said it considered this to be an investment that had gone wrong rather than a scam and concluded it was a civil dispute between Mrs B and H. It said that H had been operating for several years and that there had been no confirmation that there was fraudulent intent and that it could have simply run into financial difficulties. It added that Mrs B had signed documentation which referred to the risk of investing and also that the product she had invested in was unregulated at the time.

Unhappy with Nationwide's response, Mrs B brought her complaint to our service. While the complaint has been with us, Nationwide said the transfers were all done online, even though

Mrs B recalled doing them in branch, and that a warning had been provided at the time. The warning urged the customer to check the investment name against the FCA's warning list and to be mindful of opportunities which seemed too good to be true.

One of our investigators reviewed the complaint but didn't think Nationwide had to take any further action. Our investigator said that Nationwide should have contacted Mrs B via an online message or call before releasing the second payment. But even if it had done so, our investigator was not persuaded that this would have made a difference and thought Mrs B would have still proceeded with the payments. This is because the investment was recommended by someone she knew and also because at the time there were no indications the investment wasn't legitimate. Our investigator also thought that there were no prospects of recovery from the receiving bank as the complaint was raised after H went into liquidation.

Mrs B didn't agree and asked for an ombudsman's decision. She said had Nationwide reached out to her it would have made her rethink her decision to invest and that effective warnings should have been given before the payments were authorised.

The matter was then passed to me to decide.

### **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'd like to start by saying that I was very sorry to hear about Mrs B's experience and the loss she has suffered. I appreciate that this is a matter that has been going on for many years and is something I expect she wants to put behind her, albeit with a successful outcome.

In deciding what's fair and reasonable, I am required to take into account relevant law and regulations, guidance and standards, codes of practice, regulators' rules and where appropriate, I must also take into account what I consider to have been good industry practice at the time.

Where I can't know for certain what has or would have happened, I need to weigh up the evidence available and make my decision on the balance of probabilities – in other words what I think is more likely than not to have happened in the circumstances.

The starting position in law is that a building society such as Nationwide is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations 2017 and the terms and conditions of the customer's account. There is no dispute here that Mrs B authorised the three £10,000 payments to H (via M) and so she is presumed liable for them in the first instance. However, that isn't the end of the story. Good industry practice required that Nationwide be on the lookout for payments that were out of character or unusual to the extent that they might have indicated a fraud risk. And on identifying such payments, I'd expect it to intervene in a manner proportionate to the risk identified.

In her complaint to Nationwide, Mrs B also referred to Nationwide's obligations under the

Contingent Reimbursement Model (CRM) but as these payments were made before the CRM Code came into effect, I don't think it applies here.

Nationwide said that this was an investment that went wrong and not a scam but I don't agree. At the time when it considered Mrs B's complaint in 2024, I think there was enough evidence available for it to find that this wasn't a genuine investment but a scam. I say this based on findings made during court proceedings brought against H where, in 2020, a judge found that by the time Mrs B decided to invest, H had already decided that funds received from new investors would be used as returns for other investors. This is a type of scam commonly referred to as a Ponzi scheme. The court also found that there was no trading being carried out by H from October 2018. Nationwide said that during the winding up process, one of H's directors had agreed to cooperate with the court and that the liquidators had recovered over £1,000,000. This may be the case, but I don't think this necessarily means that H hadn't been involved in activity that could be deemed fraudulent prior to that. So, on balance, I think this was a scam and not an investment gone wrong. It follows that I don't agree that this is purely a civil dispute between Mrs B and H.

I have then gone on to consider whether Nationwide should have recognised that Mrs B was at risk of financial harm from fraud and whether it should have intervened. In doing so I have considered the transactions Mrs B made on her account from October 2017 up to the scam. Having done so I think that the amounts involved were substantially higher than other transactions and that Nationwide should have considered them to be a potential risk. The account was mainly used for receiving payments of around £500 at a time and no large outbound payments seem to have been made other than these three payments. Prior to these payments the largest outbound payment was for around £215.

Taking the above into consideration, I think Nationwide should have contacted Mrs B before the first payment was released. Nationwide said that it did provide warnings at the time including one specific to investments which warned against investments which seemed too good to be true and directed customers to check the FCA warning list to identify known scams. But bearing in mind these payments were so out of character for this account, I think Nationwide ought to have taken additional steps before processing the first payment and contacted Mrs B to ask her more about the purpose of the transfer.

For completeness I will say that I note Mrs B recalled making these transactions in branch but Nationwide says its records show that they were made online. And that Mrs B had to make three separate transactions due to £10,000 being the upper limit for bill payments at the time. On balance, I think these transactions were made online but this doesn't change any of the findings I made above.

However, I don't think it necessarily follows that Nationwide's failure to intervene means it should be responsible for Mrs B's losses.

I would need to find not only that Nationwide failed to intervene where it ought reasonably to have done so — but crucially, I'd need to find that but for this failure any subsequent loss would've been avoided.

A proportionate intervention will not always result in the prevention of a payment. And if I find it more likely than not that such a proportionate intervention by Nationwide wouldn't have revealed the first £10,000 payment was part of a fraud or scam, then I couldn't fairly hold it liable for not having prevented it from being made.

Nationwide didn't have any specific obligation to step in when it received a payment instruction to protect its customers from potentially risky investments. And Nationwide couldn't have considered the suitability or unsuitability of a third-party investment product without an explicit request from Mrs B (which there wasn't here).

But if Nationwide had taken steps to establish more information about this payment, I need to think about what those steps might be expected to have uncovered at the time.

While there may now be significant concerns about the operation of H and the legitimacy of the investment, I don't think that would have been apparent to Nationwide at the time and I cannot apply the benefit of hindsight.

At the time Mrs B had received information about the investment with H from a third-party acquaintance Mr B1. Mr B1 is the director of a genuine company (B). The payment was made to M - a genuine accountancy firm at the time. H itself was a seemingly genuine company at the time and there was no negative information about H in the public domain until after it went into liquidation (June 2019). It appears that allegations that H was operating as a scam only came to light during the liquidation process which included a court hearing in 2020. As such, this correspondence or information wouldn't have been known by either Nationwide or Mrs B at the time the first payment was made and had only come about more recently after a considerable amount of investigation.

So, on balance, I don't think intervention by Nationwide would have made a difference in this case.

I've also considered whether Nationwide should have done more to recover Mrs B's funds but by the time Mrs B raised her complaint H had already gone into liquidation. So I think any recovery would have been unlikely.

I appreciate Mrs B will be very disappointed with my decision. I understand how hard this situation must be for her but for the reasons I have already given I don't think Nationwide is responsible for the loss she has suffered. And I don't think its service or the way it handled the matter warrants awarding any compensation against it.

### **My final decision**

For the reasons above, I have decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 9 July 2025.

Anastasia Serdari  
**Ombudsman**