

## **The complaint**

Ms H, who is represented, complains that National Westminster Bank Plc ('NatWest') won't reimburse a loss she says she suffered from fraud.

## **What happened**

As the circumstances of this complaint are well-known to both parties, I have summarised them briefly below.

In early 2022, Ms H was persuaded to invest in a crypto asset trading scheme that she had found via social media.

Between March 2022 and January 2023, Ms H made eight payments from her account to an account instructed by the scheme's facilitator. The account paid was held by NatWest.

Over subsequent months, Ms H did receive a number of purported returns on her investment equating to less than 10% of the total sum she'd invested. But after this, no further returns were paid and contact with representatives of the investment scheme became scarce.

Eventually, Ms H was informed that the scheme had failed and the funds invested had been lost. It later transpired that investor funds had been misused, leading Ms H to believe she'd been a victim of an investment fraud.

Ms H's representative complained to NatWest as the receiving account provider. It claimed that NatWest were negligent in allowing the account that received the funds to be opened. It also complained that NatWest ought to have identified suspicious activity on the account and should have done more to protect victim's funds from loss.

NatWest investigated Ms H's complaint but concluded it had made no error. It referred Ms H back to her own bank—where she had paid the funds from—to pursue her loss.

Unhappy with that response, Ms H's representative referred her complaint to our service for an independent review. An Investigator considered the complaint but didn't recommend it be upheld. In summary, they found that Ms H had likely paid toward a legitimate investment that had unfortunately failed. They therefore found no liability on NatWest to reimburse her loss.

Ms H's representative disagreed with that assessment, maintaining that Ms H had in fact been a victim of fraud. As agreement couldn't be reached, the matter has now been 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.

### *Considerations*

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to

take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Banks, such as NatWest, have a long-standing legal and regulatory obligation to ensure their accounts are opened with sufficient due diligence checks. They are also required to monitor accounts on an ongoing basis for suspicious activity, such as indications that it is being used for the purpose of laundering the proceeds of crime.

Where a bank has failed in those obligations, and likely could have prevented a loss to a victim of fraud, it can be held liable for that victim's loss either partially or in full. However, that liability doesn't exist in cases where there is a private civil dispute between the sender and receiver of those funds.

Here, our Investigator has found that this is a private civil dispute between Ms H and the receiver of her funds. Ms H's representative has argued to the contrary, in that it finds it more likely Ms H has been a victim of an investment fraud. So, before I can reach a finding on whether NatWest ought to be liable for Ms H's loss, I must first decide whether this is, on the balance of probabilities, a case of fraud or not.

### *Fraud v civil dispute*

Ms H's representative has made several arguments which they say tips the balance in favour of a fraud here. These include:

- An alleged confession by the investment scheme's facilitator within a messaging platform.
- Arrests carried out by the police.
- A lack of regulatory authority, licensing or registration by the investment scheme and its facilitator.

Firstly, I'll begin with the confession. I have seen no correspondence from the alleged suspect that would indicate an admission of guilt with regards to fraud. While the suspect did admit to losing investor funds in bad trades, they did not indicate that investor funds had been used for personal gain or misappropriated in any way. This would indicate that the suspect has in fact used investor funds for their intended purpose. And loss from trading or mismanagement of those funds would not amount to fraud.

Further, the involvement of a law enforcement investigation does not evidence the intent of the suspect at the time of receiving Ms H's funds. I acknowledge that this would give the appearance to the layman that Ms H has been the victim of a crime—as it infers that the police have taken the matter seriously enough to pursue this course of action. However, the purpose of an investigation is to gather evidence. And that will likely go toward investigating the suspect's intent at the time; the result of which may or may not lead to a prosecution.

Finally, there is some ambiguity about whether the suspect was required to seek the relevant authority to carry out crypto asset trading on behalf of others. But even were I to find that they did require the relevant regulatory authority to carry out such activities, this is not substantive proof that the suspect set out with the intention to defraud at the time. It is equally plausible that they set out with intention to trade investor funds as promised without any relevant authority.

Tipping the balance in this case, I have several observations. Ms H did receive returns over a number of months. And these returns were provided after the final payment she'd made toward the investment. It isn't common for fraudsters to provide returns to victims after they

have paid into the scheme unless they are attempting to extract further funds. And I have seen no evidence that that was the case here.

I have also seen no evidence that the suspect in this case did not use Ms H's funds for their intended purpose. While I am unable to disclose any specific information regarding any third-party account data, evidence I have seen would support the assertion that Ms H's money was used as intended.

I would like to make it clear that I am not ruling out the possibility that Ms H has been the victim of investment fraud here. Our service's capabilities are limited to the analysis of the evidence provided by the disputing parties. We do not have access to the evidence available in the ongoing police investigation, nor the crypto asset accounts controlled by the suspect to see the overall usage of those funds.

I acknowledge that law enforcement, that do have the capability to access sensitive information and interview the suspect, may in the future disclose details that would support the assertion that Ms H has been defrauded. If that were to happen, Ms H or her representative could present that new evidence to NatWest for review. But as the evidence currently stands, I'm not persuaded that Ms H has been the victim of an investment fraud. It therefore follows that NatWest cannot be held liable for her loss.

### **My final decision**

For the reasons I have given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 10 December 2025.

Stephen Westlake  
**Ombudsman**