

The complaint

Mr R has complained about Nationwide Building Society not refunding several payments he says he made and lost to a scam.

What happened

The background to this complaint is well known to both parties, so I won't repeat it in detail here. In summary, Mr R fell victim to an investment scam after seeing the scammer's social media posts showing profits from trading. Mr R and the scammer then spoke for a number of days in which exceptional rapport was apparently built. Between 20 November 2023 and 11 December 2023 Mr R sent almost £14,000 to the scammer via his Nationwide account. Mr R realised he had been scammed when he was unable to withdraw any of his profits.

Nationwide subsequently decided to offer Mr R a partial refund of his losses. It believed it should have been concerned when Mr R made a payment of £3,141.20 on 5 December 2023. However, it also decided that Mr R should be held partly liable for the losses as he was contributorily negligent in his actions. Therefore, it deducted 50% from this offer. Nationwide also sent Mr R £250 for their failure to intervene. However, Mr R did not feel this offer was fair.

Our Investigator looked into things and found that the offer made was reasonable. They agreed an intervention should have occurred at the point Nationwide found. They similarly agreed that a 50% deduction for Mr R's actions leading to these losses was fair. Our Investigator also thought it was reasonable that Nationwide offered £250 in compensation for failing to intervene at the time and the impact caused.

As Mr R disagreed, and our Investigator couldn't resolve the matter informally, the case has been passed to me for a 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'm aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focused on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I don't doubt Mr R has been the victim of a scam here – he has lost a large sum of money and has my sympathy for this. However, just because a scam has occurred, it does not mean Mr R is automatically entitled to recompense by Nationwide. It would only be fair for me to tell Nationwide to reimburse Mr R for his loss (or a proportion of it) if: I thought Nationwide reasonably ought to have prevented all (or some of) the payments Mr R made, or Nationwide hindered the recovery of the payments Mr R made – whilst ultimately being satisfied that such an outcome was fair and reasonable for me to reach.

I've thought carefully about whether Nationwide treated Mr R fairly and reasonably in its dealings with him, when he made the payments and when he reported the scam, or whether it should have done more than it did. Having done so, I've decided to not award anything further to Mr R. Ultimately, I agree that the award Nationwide has made to Mr R is fair and reasonable. I would also not consider awarding anything further than the £250 awarded by Nationwide for its initial failings to intervene and the impact this caused. I know this will come as a disappointment to Mr R and so I will explain below why I've reached the decision I have.

I have kept in mind that Mr R made the payments himself and the starting position is that Nationwide should follow its customer's instructions. So, under the Payment Services Regulations 2017 (PSR 2017) he is presumed liable for the loss in the first instance. I appreciate that Mr R did not intend for his money to ultimately go to fraudsters – but he did authorise these payments to take place. However, there are some situations when an electronic money institution should have had a closer look at the wider circumstances surrounding a transaction before allowing it to be made.

Considering the relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time - Nationwide should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and 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 payment service providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

So, I've thought about whether the transactions should have highlighted to Nationwide that Mr R might be at a heightened risk of financial harm due to fraud or a scam. Having done so I agree with our Investigator, and Nationwide, that an intervention should have incurred.

I have kept in mind the payments were to a cryptocurrency exchange, but that doesn't mean they should automatically have been treated as suspicious. This is particularly so when there

are no other concerning factors about the payments. Albeit investing in cryptocurrency is a highly risky endeavour, it is ultimately a legitimate one and so certain banks and Electronic Money Institutions (EMI) do permit payments to cryptocurrency exchanges.

Considering Mr R's initial payments, I am not persuaded that Nationwide should have found them suspicious. I say this because at these points there was no pattern to suggest he was at risk of harm from fraud or a scam. I do not agree with Mr R that the value or frequency should have alerted Nationwide to potentially something untoward occurring. However, by Mr R's payment of £3,141.20 Nationwide ought to have been concerned that he could be at risk of financial harm. This payment was of an increased amount and should have been noted as unusual. Therefore, Nationwide should have intervened before allowing this payment to be made. I'm persuaded an intervention here would have uncovered the scam and prevented Mr R's losses – which Nationwide has agreed with.

Should Mr R bear any responsibility for his losses?

The starting point for contributory negligence is considering what a reasonable person would be expected to have done in the circumstances such as this – and whether Mr R's actions fell below that. Considering the full circumstances of what took place I think there were enough reasons for Mr R to have had concerns about the legitimacy of what he was being told. It follows that I think Mr R should have, in light of such concerns, been more cautious before proceeding to send his funds in line with the scammer's instructions.

I say this because Mr R came across the investment whilst browsing on social media and then proceeded to invest after building rapport with an unknown individual. I also think that the guaranteed returns offered by this investment should have resonated with Mr R as being too good to be true. Additionally, when another financial institution that Mr R banked with intervened Mr R was not forthcoming with the information required which would have allowed it to uncover the scam. Similarly, even when concerned he had fallen victim to a scam he continued sending funds to the scammer. So, I do think Mr R did contribute to his losses with his actions.

I have a great deal of sympathy for Mr R and the loss he's suffered and I want to reassure him that I haven't taken this decision lightly. But as I've explained, even whilst keeping in mind the sophisticated aspects of the scam, I am persuaded there were sufficient red flags which were apparent at the time and so in these circumstances it is fair that both parties equally share responsibility. I do not consider that building trust with the scammer means Mr R is exempt from any liability for what occurred.

I am sorry to hear about the vulnerable situation Mr R says he was in at the time of the scam and how the alleged scammers may well have used this to ensure he invested. The repercussions such a cruel scam has had on Mr R is not something I have overlooked when reaching my decision. However, I have not seen a pattern emerge that would have highlighted to Nationwide that Mr R had vulnerabilities, or that they may have been impairing his decision-making during this scam. I am empathetic towards him, but I do not consider his vulnerabilities, in isolation of any other clear indicators of a potential risk of financial harm, to be something that should have triggered further red flags for Nationwide. I also have not seen evidence Nationwide was made aware of his vulnerabilities.

I've noted Mr R has referenced decisions that he believes are close to his circumstances. However, we consider each case on its own individual merits and although he believes the circumstances of other decisions seem to be similar, there are key differences.

Recovery

The only method of recovery Nationwide has for the payments made by card is to request a chargeback. However, the payments were not made to the scammer directly but to a cryptocurrency exchange. The service provided by the cryptocurrency exchange would have been to convert or facilitate the conversion of Mr R's payments into cryptocurrency. If these funds had not already been transferred to the scammer, they would be in his control to access as and when he chose. The fact that the cryptocurrency was later transferred to the scammer doesn't give rise to a valid chargeback claim against the merchant Mr R paid. Therefore, I won't be asking Nationwide to do anything further as it could not have successfully recovered his funds – whether it had tried or not.

The Contingent Reimbursement Model Code

Although Nationwide has signed up to the Contingent Reimbursement Model Code, the payments Mr R made from their account aren't covered by the Code because they made the payments from his Nationwide account to his other account and not to another person. I cannot fairly and reasonably say that Nationwide should have to refund payments under the Code when it doesn't apply here.

So, in light of all of the above findings, there's no fair and reasonable basis under which I can ask Nationwide to reimburse Mr R's full loss.

My final decision

My final decision is that I find Nationwide Building Society's offer to be fair in these circumstances. For completeness, I'll add the award it has made is more than what I would have awarded. Therefore, I do not uphold this complaint and I am making no additional award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 25 September 2025.

Lawrence Keath
Ombudsman