

## **The complaint**

Mr F complains that Nationwide Building Society won't refund money he lost when he says he was the victim of an investment scam.

Mr F's complaint is brought through professional representatives. But for ease I'll refer to Mr F throughout this decision.

## **What happened**

The background to this complaint is well known to both parties, so I won't repeat it all in detail here, but in summary I understand it to be as follows.

Mr F says he was persuaded to invest with a company which I'll refer to as N. He says that N was suggested to him as part of an investment portfolio through his financial advisor who was also a friend. In August 2020, Mr F made two payments of £8,000 to N. This was followed by two further payments of £10,000 to N in March 2021.

The payments were for loan notes and the documentation Mr F received confirmed he would receive 12% interest per annum on his funds, with returns payable every six months. Mr F received a return of £957.37 in February 2021 – six months after his original investment. But then the payments stopped and N went into liquidation in August 2021.

Mr F believes the investment wasn't genuine and that he is the victim of a scam. He raised a claim and complaint with Nationwide. This was on the basis that Nationwide ought to be refunding him under the Contingent Reimbursement Model (CRM) Code, which was in force at the time Mr F made the payments and that Nationwide was a signatory of. Mr F specifically highlighted that his personal circumstances, having recently gone through a divorce, meant he was particularly vulnerable to this type of scam.

Nationwide issued a final response to Mr F. It declined reimbursing him, advising it was a civil dispute as N was a genuine company that experienced difficulties and went into liquidation. So, it considered it was a genuine investment that had failed and not a scam. It also explained that the payments were also in keeping with Mr F's account activity.

Mr F referred his complaint to this service. Our investigator who considered the complaint didn't recommend that it be upheld. He said the evidence available was consistent with N being a legitimate company which Mr F's investment was being made to fund. And while N failed, he considered the purpose that Mr F had made the payment, and the purpose N had, was broadly in line. So, he didn't consider there was sufficient evidence to conclude that the definition of an Authorised Push Payment (APP) scam had been met. Therefore, he couldn't ask Nationwide to refund him under the CRM Code.

Mr F didn't agree. He said that in the case of N, evidence suggests it was engaged in system misrepresentation and suspicious financial practices, which go beyond ordinary business failure. Our investigator responded advising there isn't any persuasive evidence of a scam. As an agreement couldn't be reached, the case has since 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.

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.

Mr F's representative has made detailed submissions in support of his complaint. I would like to assure Mr F that I've read and considered everything that has been submitted. However, I don't intend to respond in similar detail. 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 focussed on what I think is the heart of the matter here – which is whether Nationwide acted fairly in its answering of the complaint that the matter is a civil dispute, and it is therefore not liable to reimburse Mr F under the provisions of the CRM Code. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. 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.

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.

Nationwide was a signatory of the Lending Standards Board's CRM Code. The starting principle was that a firm should reimburse a customer who was the victim of an APP scam, except in limited circumstances. The CRM Code goes on to define what it means by an APP scam. So if I am not persuaded there was a scam, in line with the definition, then I will not have a basis under the Code to uphold this complaint.

The relevant definition of a scam for this case, in accordance with the CRM Code, is that the customer – Mr F – transferred funds to another person for what they believed were legitimate purposes but were in fact fraudulent.

The Code also says it doesn't apply to private civil disputes, such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier. So, it doesn't cover a genuine investment or a genuine business that subsequently failed. Or a situation involving something that may be considered a "bad bargain".

It is for Mr F to demonstrate that he is the victim of an APP scam. And to decide whether Mr F is the victim of an APP scam as defined in the CRM Code I need to consider first, whether the purpose he intended for the payment was legitimate. I then need to consider whether the purposes he intended and N intended were broadly aligned. And if I find they weren't, whether this was the result of dishonest deception on the part of N.

Mr F thought he was investing in a mining company based abroad. I haven't seen anything

to suggest that he didn't consider this to be a legitimate purpose. In reaching an answer on what purpose N had in mind, I've considered the wider circumstances surrounding N and any linked businesses.

While Mr F's representatives have advised that the returns weren't received and that the returns being offered were 'too good to be true' – that doesn't necessarily or automatically indicate N had fraudulent intent from the outset. I am also mindful no convincing evidence has been put forward, so far, that indicates N were likely operating a scam when it took Mr F's payments. In fact, Mr F has confirmed he did receive a return – which was six months after his initial investment with N, but thereafter it had entered into liquidation and before any further returns were due to be paid.

N had been in business from 2015. Having reviewed the liquidators reports which are available in the public domain on Companies House, I can see that N had genuine subsidiary companies based abroad and that were sold during the liquidation process. These underlying businesses were carrying out mining activities – which is the same activity that led Mr F to invest with N. On the whole, it seems N was a genuine company that failed, and there has been no evidence put forward by way of any external investigation by a statutory body to suggest this was a scam or Ponzi scheme or that it obtained customer funds fraudulently.

Having considered all the evidence provided to me and available in this case, I'm not persuaded there is sufficient evidence to conclude that the purpose N had in mind when it took payment from Mr F was different to his. So, I consider Nationwide acted fairly when saying this was a civil dispute and therefore Mr F's payments aren't covered by the CRM Code. Nor do I find Nationwide could have reasonably prevented Mr F's loss here or that there were any other failings on Nationwide's part that would lead me to uphold this complaint.

### **My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 2 March 2026.

Mark O'Connor  
**Ombudsman**