DRN-5877416

The complaint

Mr O complains that Nationwide Building Society didn’t do enough to protect him from the financial harm caused by an investment scam, or to help him recover the money once he’d reported the scam to it.

What happened

The detailed background to this complaint is well known to both parties. So, I’ll only provide a brief overview of some of the key events here.

Mr O was persuaded to invest in cryptocurrency. He wasn’t promised specific returns and only communicated with a third party when he was setting up his trading account. He purchased cryptocurrency through B and then loaded it onto an online wallet and between 27 July 202 and 12 April 2021, he made eight payments to B totalling £12,590.

Mr O could see his investment on the trading platform, but he began to suspect he was being scammed when he couldn’t withdraw any funds. He complained to Nationwide with the assistance of a representative who said it should refund the money under the Contingent Reimbursement Model (“CRM”) Code. They also said he didn’t receive any effective warnings and that he should have been considered vulnerable.

But Nationwide refused to refund any of the money Mr O had lost. It said the CRM code didn’t apply because the payments were to an account in Mr O’s own name. It also said the payments weren’t unusual and, even if it had intervened, it wouldn’t have uncovered the scam because there was no adverse information at the time about H in the public domain.

Mr O wasn’t satisfied and so he complained to this service. His representative said the Financial Conduct Authority (“FCA”) published a warning against H on 23 March 2021, and in June 2021, it published a consumer warning about B.

Nationwide said Mr O often sent high value payments, and so the scam payments weren’t unusual, he had a history of sending money to various investments, and there was a large balance in the account.

But our investigator didn’t think the complaint should be upheld. He was satisfied that Mr O had bought cryptocurrency, but he wasn’t satisfied that his representative had provided enough evidence to say he’d lost money to a scam because the payments to B weren’t fraudulent, and there was no evidence that the funds were subsequently lost to a scam. And without evidence of the messages between Mr O and the scammer, he couldn’t be certain he'd lost his funds to the scam.

Mr O has asked for his complaint to be reviewed by an Ombudsman. His representative has explained that Mr O tried to collate statements from his cryptocurrency account, but B hasn’t given him the necessary statements in the format required. They’ve argued that this shouldn’t be taken as a lack of cooperation, but rather as a limitation imposed by B’s unwillingness to release the documents.

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.

Having done so, I've reached the same conclusion as our investigator. And for largely the same reasons. I know Mr O feels strongly about this complaint, and this will come as a disappointment to him, so I'll explain why.

The Contingent Reimbursement Model ("CRM") Code requires firms to reimburse customers who have been the victims of Authorised Push Payment ('APP') scams, like the one Mr O says he's fallen victim to, in all but a limited number of circumstances. Nationwide has said the CRM code didn't apply in this case because Mr O paid an account in his own name, and I'm satisfied that's fair.

I'm satisfied Mr O 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although he didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of his bank account, Mr O is presumed liable for the loss in the first instance.

Where a customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment. There is an FCA warning dated 23 March 2021 which stated that individuals should avoid dealing with H and beware of scams. So, I'm satisfied H was operating a scam.

However, I also need to be satisfied that Mr O has lost money to this scam and, unfortunately, I don't consider he has produced sufficient evidence to persuade me that he has.

Our investigator asked for evidence of Mr O's communication with scammers, but I note Mr O has previously said his only communication with a third party was when he set up the trading account. However, our investigator made it clear that he would need to see evidence of funds leaving Mr O's cryptocurrency wallet, but this hasn't been produced. I've noted the representative's comments about why Mr O has been unable to produce this evidence, but I can't fairly consider whether Nationwide ought to have prevented Mr O's loss without some evidence of the loss.

So, I don't consider there is enough evidence to show he lost funds to this scam, and therefore I'm not minded to uphold this complaint.

My final decision

For the reasons I've outlined above, 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 O to accept or reject my decision before 19 January 2026.

Carolyn Bonnell
Ombudsman