

The complaint

Mr and Mrs C complain that Nationwide Building Society (“Nationwide”) won’t reimburse payments they made to what they now believe to be a sophisticated investment scam.

What happened

The background to this complaint is well known to both parties, so I won’t repeat everything in detail again here. However, in summary, Mr and Mrs C believe they’ve been the victims of a scam.

They were introduced to a company I will refer to as “E. E said it was involved in sustainable renewable energy as well as investing in land and property. Mr and Mrs C were sent the link to E’s website and an investment brochure and were ultimately persuaded to invest. In May 2021, Mr and Mrs C invested £20,000 into fixed term loans with E.

Mr and Mrs C didn’t receive any returns on their investment and E entered liquidation 2022.

Mr and Mrs C now believe they’ve been the victims of an investment scam and so they contacted their bank, Nationwide, to request a refund of the amount lost.

Nationwide declined to offer Mr and Mrs C a refund. It said it didn’t think they’d been the victims of a scam at all. It thought Mr and Mrs C had invested in a legitimate company that had ultimately failed after they had made their payments. This meant that Mr and Mrs C now had a civil dispute with E rather than that they’d been the victims of a scam which Nationwide needed to become involved in now.

Mr and Mrs C didn’t agree with what Nationwide said and so they brought their complaint to this service with the help of a professional representative.

One of our investigators looked into things but they didn’t uphold the complaint. They agreed that it was reasonable for Nationwide to treat Mr and Mrs C’s circumstances as a civil dispute rather than a scam. They said there was no evidence that E had an intention to defraud its investors from the outset.

Mr and Mrs C didn’t agree with our investigator’s opinion. And as an informal agreement has not been reached, the case has been passed to me for a final 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.

Having done so, I agree with the outcome reached by our investigator, for the same reasons. I will explain why in more detail below.

In broad terms, the starting position at law is that a firm, such as Nationwide, is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

However, Nationwide is a signatory of the Contingent Reimbursement Model Code ("the CRM Code") which requires firms to reimburse customers who have been the victims of authorised push payment ("APP") scams in all but a limited number of circumstances. The Code, however, does not apply to:

"private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier".

It follows that Mr and Mrs C would not be entitled to a refund under the CRM Code if it was found that their payments went to a legitimate investment that ultimately failed.

So, in order to reach my decision on this complaint, I've considered the purpose for which Mr and Mrs C made their payments and the purpose for which E received those payments. And, if there is a significant difference in these purposes, whether I can be satisfied that this difference was as a result of dishonest deception.

Mr and Mrs C's understanding

I'm satisfied Mr and Mrs C intended their funds to be used to as an interest-bearing loan. I haven't seen anything that persuades me that Mr and Mrs C didn't think this was a legitimate purpose.

Was E's purpose fraudulent?

I've then gone on to consider the purpose E had in mind at the time it received Mr and Mrs C's funds and whether E's purpose was in line with the purpose Mr and Mrs C had in mind at the time they sent the funds. In reaching a conclusion on this point, I've considered the following information:

- The liquidator's report dated July 2024 shows E was involved with a number of other companies at the point it entered liquidation. And, whilst the report does raise some concerns about the information seen by the liquidators, it doesn't suggest E were operating a scam or say there is evidence that E intended to defraud investors from the outset. Funds being difficult to trace and the apparency of incomplete records are equally likely to be evidence of poor book-keeping and / or poor business practice rather than a scam and it doesn't evidence an intent to defraud from the outset.
- The report also shows that liquidators identified the company had assets of cash and debtors in line with the explanation provided by E's director of the companies two key areas of business - owning shares of a number of businesses with a focus on sustainable energy and the acquisition and development of land and property.
- Statements for the receiving banks show that multiple payments were made to and from the companies mentioned in the liquidator's report. The statements show returns being sent and payments being made to other businesses for engineering, consulting and tax services as well as for the production and wholesale of machinery, which again is in line with the area of business that E said it was involved in. It also demonstrates E's involvement with other companies operating in the renewable energy sector.

- The director of E had been known to provide a personal guarantee for this investment and accountants involved in his asset valuation confirmed he had assets totaling 29 million as of 2019. This demonstrates some transparency on behalf of E's director and offers reassurance that he was able to honour the personal guarantee offered to investors.
- Whilst I understand that there is an ongoing Police investigation into the activities of E's director and this, on the face of it, is concerning, this service has not been provided with any further information about this investigation or any further details as to what was being looked into. So, as it stands, it is unknown whether this investigation is linked to the activities of E.
- Companies House history for E, whilst limited, shows that E filed company accounts in December 2019 and December 2020 showing fixed assets of 8 million and net assets of c2 million. This mirrors the liquidators' findings that the company had assets.

It has been difficult to gain a full understanding of how E's funds were used as it had multiple dealings with companies in other jurisdictions and multiple different banks accounts, which this service does not have access to. So, whilst we have seen statements that support E was operating within the renewable energy sector, we still do not have the full financial picture.

So, overall, whilst I acknowledge Mr and Mrs C's representatives concerns about accurate book-keeping and transparency, I'm not persuaded that there is enough evidence to support E was operating fraudulently with the intent to defraud investors from the outset. The evidence this service has seen shows E was actively dealing with other companies in the renewable energy sector which is what Mr and Mrs C thought their money would be used for.

Without any persuasive evidence to support Mr and Mrs C's arguments that E was operating a scam, I can't reach the conclusion that it's more likely than not that E didn't carry out the actions agreed as part of their investment with it. For this reason, I'm not persuaded that Nationwide has acted unfairly in reaching the conclusion that Mr and Mrs C's circumstances amount to a failed investment rather than a scam. So, I won't be asking Nationwide to return to Mr and Mrs C the funds they've lost now.

I've also considered whether Nationwide could've done any more at the time of the payments in order to prevent Mr and Mrs C's loss but I'm not persuaded it could. I'm not persuaded that any information that might've been presented by Mr and Mrs C at the time would've suggested they might be at risk of financial harm – as I'm satisfied this was most likely a legitimate investment. So, I can't fairly say Nationwide could've prevented Mr and Mrs C's loss at the time either.

Overall, I'm not persuaded that Mr and Mrs C have fallen victim to an APP scam, based on the evidence available to me. To find that E was operating a criminal scam, I'd need to find that there is convincing evidence to show that fraud and criminality is the most likely explanation as to why Mr and Mrs C's investment didn't go as planned, not one of a range of possibilities.

I have every sympathy for Mr and Mrs C. I know they have lost a substantial amount of money and has provided a lot of detailed information and evidence relating to their complaint. But many businesses and investments fail and enter administration for genuine reasons, and not because they were set up to defraud and scam people. Based on what I have seen, I can't say that an APP scam is a more likely explanation here.

Should any material new evidence come to light at a later date, for example from the police or liquidators, Mr and Mrs C can ask Nationwide to reconsider their claim. But, as it stands, I can't fairly say Nationwide should reimburse their losses under the CRM Code or for any other reason.

My final decision

My final decision is that I do not uphold this complaint about Nationwide Building Society.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Mrs C to accept or reject my decision before 27 January 2026.

Emly Hanley Hayes
Ombudsman