

The complaint

Mr S is being represented by solicitors. He's complaining about Nationwide Building Society because it declined to refund money he lost as a result of fraud.

What happened

Sadly, Mr S fell victim to a cruel investment scam. After finding out about the opportunity online, which he says was advertising returns of between 5% and 10% per month, he used his Nationwide account to make more than 20 transfers between November 2021 and October 2022 that totalled nearly £40,000. The payments went to a cryptocurrency exchange, from where the cryptocurrency purchased was transferred to the scammers. His bank statements show Mr S did receive a small return from the cryptocurrency exchange in August 2022, but says the rest of the money was lost to the scam.

Our investigator didn't recommend the complaint be upheld. She didn't feel there was sufficient evidence to show the payments were lost to the scam. Mr S didn't accept the investigator's assessment. He and his representative provided further explanation about how the scam took place and information designed to show how his money was lost.

The complaint has now been referred to me for review.

My provisional decision

After the complaint was referred to me, I issued my provisional decision setting out why I didn't think it should be upheld. My reasons were as follows:

Available information indicates the scheme Mr S paid money to was almost certainly a scam. And I believe the evidence he's provided, while not a complete record of everything that took place, does show he sent money to the scheme. However, I don't believe the extent of the loss to the scam is necessarily clear. I say this because Mr S made other payments to the cryptocurrency exchange during this time that haven't been included in his complaint. When our investigator asked about this, his representative told us that since November 2021 he's fallen victim to four different cryptocurrency-related scams. This suggests not all payments to cryptocurrency made between the above dates were associated with this particular scam. So without being able to track where each payment ended up, which I do understand is very difficult with transactions involving cryptocurrency, I don't think I'm necessarily in a position to conclude all of this money was lost to the scam identified.

The above notwithstanding, I have gone on to consider Nationwide's role in facilitating the payments.

There's no dispute that Mr S authorised these payments. In broad terms, the starting position at law is that a bank is expected to process payments a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of their account. In this context, 'authorised' essentially means the customer gave the business an instruction to make a payment from their account. In

other words, they knew that money was leaving their account, irrespective of where that money actually went.

There are, however, some situations where we believe a business, taking into account relevant rules, codes and best practice standards, shouldn't have taken its customer's authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before making the payment.

Nationwide also has a duty to exercise reasonable skill and care, pay due regard to the interests of its customers and to follow good industry practice to keep customers' accounts safe. This includes identifying vulnerable consumers who may be particularly susceptible to scams and looking out for payments that might indicate the consumer is at risk of financial harm.

Taking these things into account, I need to decide whether Nationwide acted fairly and reasonably in its dealings with Mr S.

The payments

I must take into account that many similar payment instructions Nationwide receives will be entirely legitimate and I also need to consider its responsibility to make payments promptly. And that while these were payments to cryptocurrency, which are now widely accepted to carry a greater risk of being associated with fraud, this link wasn't necessarily as prominent at the time of these payments as it later became.

Having considered what Nationwide knew about the payments at the time, I'm conscious they were spread out over a significant period of time, meaning a pattern of multiple rapid payments consistent with many types of known scam didn't necessarily emerge. Nonetheless, some of the payments were substantial and I would have expected Nationwide to identify at some point that Mr S could be at risk of harm from fraud. And in view of the risks the payments presented, I think it should have at some point have at least made enquiries about their purpose with a view to showing relevant tailored scam warnings.

Nationwide has indicated to us that it would have asked Mr S to confirm the reason for some of the payments but says it no longer has a record of the answers he gave. But assuming he answered truthfully and said he was making an investment, which I believe he would have for reasons I'll come to later, it's provided the wording of the warning that would have been shown. This reads as follows:

Be aware of scams

Contacted unexpectedly or pressured to invest?

Offered unusually high returns?

Told to pay a different company from the one you want to invest with?

Introduced to an unnecessary broker?

If you to any of these, this is probably a scam – stop now

Criminals pretend to be genuine investment firms to trick you into investing. They copy a company's name and address, use fake emails and websites, and even use genuine employees' names.

Criminals set up unregulated firms. These look real, but they're stealing your money and you're unlikely to get it back. Some criminals even pay a return on an investment at the start to get you to invest more. Many cryptocurrency investments aren't regulated – if you're not sure how it works, do not invest in it.

Check the following before any investment, even if you've found the opportunity yourself

Check the FCA warning list for firms to avoid.

Check the FCA register to make sure the firm or person you're speaking to is authorised or on the list of firms with temporary registration.

Compare the contact details you've been given with those on the register. Call the number on the FCA register to check it's a genuine opportunity.

Search online for independent reviews and known scams. Check any paperwork received for inconsistencies.

Overall, I think this is a fairly comprehensive warning for the time that set out some of the common features of the type of scam Mr S has described. In particular, I think the part about scam investments offering unusually high returns should have resonated with him. The warning also includes advice on how to verify the legitimacy of the investment scheme, which if followed may have helped open his eyes to what was really going on.

In addition to these warnings, we've been in contact with another bank Mr S holds an account with and it's confirmed he made two payments on 30 October 2021 (shortly before the first payment raised in this complaint) that he said were for investment in cryptocurrency. The fact he was open about the purpose of these payments is the reason I believe he would also have answered Nationwide's questions correctly. That bank has said it showed a written warning in connection with each of these payments about scams that said he should 'stop' if 'the offer sounds too good to be true' and went on to say:

Remember:

Legitimate investments will never guarantee profit

Legitimate investments aren't arranged over social media or things like WhatsApp

Check out the company

See if they're a legitimate company here [\[link to FCA register\]](#). Don't pay unless they're registered with the FCA and you're certain you can trust them.

So, it appears Mr S did receive scam warnings and advice on how to protect himself in addition to those from Nationwide, but none of these prevented him from wanting to go ahead. His representative may want to argue that written warnings didn't go far enough and Nationwide should have spoken to him to discuss the circumstances of the payments. But even if I were to accept that, I'd also need to conclude that further intervention of this kind would have been successful in stopping him sending more

money to the scheme despite the research he'd already carried out that had convinced him it was genuine. I've thought about this point carefully and in view of the gaps in the evidence, particularly a full record of communications with and information received from the scammers - not helped by the amount of time that has elapsed since the payments were made, I don't think I can fairly conclude that further intervention by Nationwide would have stopped further losses when the interventions it did make, along with those by his other bank, weren't successful.

I want to be clear that it's not my intention to suggest Mr S is to blame for what happened in any way. He fell victim to a sophisticated scam that was carefully designed to deceive and manipulate its victims. I can understand why he acted in the way he/she] did. But my role is to consider the actions of Nationwide and, having done so, I'm not persuaded these were the cause of his losses.

Recovery of funds

I've also looked at whether Nationwide could or should have done more to try and recover Mr S's losses once it was told the payments were the result of fraud.

I understand Mr S didn't notify Nationwide of the scam until some time after the payments were made. It's a common feature of this type of scam that the fraudster will move money very quickly to other accounts once received to frustrate any attempted recovery and it's not a surprise that efforts to get his money back weren't successful. Further, Mr S transferred funds to a legitimate cryptocurrency account in his own name. From there, he purchased cryptocurrency and moved it onto a wallet address of his choosing (albeit on the scammers' instructions). Nationwide could only try to recover funds from Mr S's own account and it appears all the money had already been moved on. If not, anything that was left would still have been available to him to access.

In the circumstances, I don't think anything that Nationwide could have done differently would likely have led to those payments being recovered successfully after this period of time.

In conclusion

I recognise Mr S has been the victim of a cruel scam and I'm sorry he lost this money. I realise my comments will come as a great disappointment but, for the reasons I've explained, I don't think I can fairly conclude that further intervention by Nationwide would have made a difference to the eventual outcome and I'm not proposing to tell it to make any refund.

The responses to my provisional decision

Mr S didn't accept my provisional decision. His representative maintains Nationwide should have identified that the unusual pattern of payments meant he was at risk of harm from fraud. And if it had asked appropriate probing questions as it should have, certain features of the scam (for example the fact all communication was by email by email and that he hadn't yet made any withdrawals) would have resonated with Mr S and opened his eyes to the scam.

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, my findings haven't changed from those I set out previously. I haven't necessarily commented on every single point raised. I've concentrated instead on the issues I believe are central to the outcome of the complaint. This is consistent with our established role as an informal alternative to the courts. In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time.

Mr S's representative hasn't responded to my comments about the practicality of assessing the extent of his loss to the scam. But this notwithstanding, I've already agreed Nationwide should have identified the risk of fraud and taken action to intervene. I acknowledge that his representative believes its intervention should have been more robust. But as I explained in my provisional decision, in view of the gaps in the evidence, particularly a full record of communications with and information received from the scammers - not helped by the amount of time that has elapsed since the payments were made, I don't think I can fairly conclude that a stronger intervention would have stopped further losses. Particularly when the interventions it did make, along with those by Mr S's other bank, weren't successful.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 13 January 2026.

James Biles
Ombudsman