

The complaint

Mr O complains that Nationwide Building Society ("Nationwide") won't refund over £27,000 he lost to a cryptocurrency investment scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat everything again here. In brief summary. Mr O fell victim to an investment scam beginning in June 2021 after he was contacted by someone claiming to be a trading expert from a broker ("T") on social media.

He was encouraged to invest and made the following payments using his Nationwide debit card to purchase cryptocurrency, which was then forwarded onto the scammer from his crypto wallets:

Payment No.	Date	Payment details	Amount
1.	02/06/2021	Card payment to Coinbase	£1,881.53
2.	05/06/2021	Card payment to Coinbase	£195.32
3.	21/06/2021	Card payment to Coinbase	£424.10
4.	26/06/2021	Card payment to Coinbase	£371.22
5.	03/07/2021	Card payment to Coinbase	£399.16
6.	10/07/2021	Card payment to Coinbase	£400.82
7.	17/07/2021	Card payment to Coinbase	£361.13
8.	24/07/2021	Card payment to MoonPay	£137.80
9.	24/07/2021	Card payment to MoonPay	£4025.08
10.	24/07/2021	Card payment to CB Payments	£7,490.04
11.	31/07/2021	Card payment to CB Payments	£441.81
12.	31/07/2021	Card payment to CB Payments	£1,769.97
13.	07/08/2021	Card payment to CB Payments	£750.00
14.	13/08/2021	Card payment to CB Payments	£2,080.00

15.	14/08/2021	Card payment to CB Payments	£778.05
16.	17/08/2021	Card payment to MoonPay	£1,342.10
17.	17/08/2021	Card payment to MoonPay	£1,396.35
18.	17/08/2021	Card payment to MoonPay	£1,280.04
19.	18/08/2021	Card payment to MoonPay	£742.50
20.	21/08/2021	Card payment to MoonPay	£1,160.00
21.	28/08/2021	Card payment to CB Payments	£250.00
			Total £27,680.02
	31/08/2021	Coinbase credit	£42.22
	08/09/2021	Coinbase credit	£9.79

Mr O realised he'd been scammed when he was asked to pay large amounts of money in order to withdraw his profits. He reported the fraud to Nationwide and asked it to reconsider reimbursing the money he'd lost, as he said it should have done more to protect him from the scam.

Nationwide agreed that it should have intervened as of the £4,025.08 payment made on 24 July 2021 (*payment number nine listed in the table above*) in light of the unusual account activity, and it conceded that any further loss would've likely been prevented if it had done so. However, Nationwide also considered Mr O to be jointly responsible for his loss due to his lack of due diligence and failure to question unrealistic returns that should've appeared too good to be true. As a result, it offered to refund 50% of the payments Mr O made from payment nine onwards.

Mr O didn't think this was fair, so he referred the matter to our service. Our investigator upheld the complaint. She agreed that Nationwide should have intervened as of payment number nine, but she didn't think it was fair to reduce compensation by 50% as there was very little information Mr O could've found on T if he had carried out further due diligence. She also didn't think he'd been told anything that ought to have sounded too good to be true, so the investigator recommended that Nationwide refund 100% of the payments from payment nine onwards.

Mr O agreed with the investigator's recommendations, but Nationwide disagreed, so the matter has been escalated to me to determine.

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 conclusions reached by the investigator and have decided to uphold it for the following reasons:

- It isn't in dispute that Mr O has fallen victim to a cruel scam here, nor that he authorised the payments made to his crypto wallets. Nationwide has also accepted that it should've intervened when Mr O made the £4,025.08 payment made on 24 July 2021, and that it could have likely prevented any further loss if it had done so. As a result, Nationwide has agreed to refund the payments made as part of the scam from this point onwards, albeit with a 50% deduction. Mr O has also since accepted that it's from this payment onwards that Nationwide should have intervened. Given these points are no longer in dispute, I do not intend to explore these issues any further.
- What remains in dispute in this case is whether Nationwide should refund 100% of these payments, or whether it would be fair and reasonable for it to only refund 50% in recognition of Mr O's lack of due diligence and negligence. And having considered the arguments from both parties, I'm not persuaded it would be fair and reasonable to make a deduction for contributory negligence in these circumstances. I'll explain why.
- Nationwide believes Mr O should be held jointly liable for his loss as it says he was promised a ten-fold return on his investment, which should have sounded too good to be true. It also thinks it should have appeared unusual to see an investment opportunity promoted on Instagram, as well as the fact that he didn't receive any documentation.
- First, I don't think the fact that Mr O found the investment via Instagram means he ought to have known it was a scam. I acknowledge it may not be a traditional channel of advertising for investment opportunities, but it wouldn't be unusual to find information relating to legitimate cryptocurrency investments on a social media platform given its popularity. Mr O also may not have received paperwork for his investment, but again I don't consider this to mean he was negligent for failing to realise it was a scam. I appreciate these factors may be concerning to an experienced investor. But for a relatively inexperienced investor like Mr O, I would only expect these issues to have perhaps prompted him to carry out further research into T before deciding to invest.
- However, after carrying out my own research, it doesn't appear that Mr O would've found anything adverse or negative about T at the time he chose to invest. So, even if he did fail to carry out a reasonable level of due diligence, I'm not persuaded he would have come across any warnings or been deterred from investing if he *had* done further research. Therefore, his lack of due diligence cannot be said to have *contributed* towards his loss in this respect, meaning it wouldn't be fair to make a deduction on that basis.
- In terms of the returns Mr O was expecting, he's said he doesn't ever recall being *promised* a ten-fold return on his investment as Nationwide has suggested, only that that broker supposedly had an algorithm that could help achieve these returns. Mr O said he was not expecting huge returns due to the volatility of cryptocurrency trading either. He said the scammer told him that if he invested larger sums more frequently that he would make more profit. And while this may have carried more risk, it doesn't sound overly unrealistic or too good to be true. And there's no evidence to suggest he was promised or guaranteed a 1000% return on his investment, so I don't think Mr O ought reasonably to have suspected he was being scammed in light of what he was told by the scammer either. As a result, I'm satisfied it's fair and reasonable in all the circumstances for Nationwide to refund 100% of the payments Mr O made to the scammer from the point it should've intervened.

My final decision

For the reasons given above, I uphold this complaint and direct Nationwide Building Society to:

- Refund the payments Mr O made to the scammer from the £4,025.08 payment made on 24 July 2021 onwards, less any credits received.
- Given this money originated from Mr O's savings account, Nationwide should pay interest on the payments at the rate applicable to the originating account at the time, from the date each payment was made until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 30 January 2024.

Jack Ferris
Ombudsman