

The complaint

Mr H has complained that Nationwide Building Society ("Nationwide") has refused to refund him money he lost as the result of a scam.

What happened

The background to this complaint is known to both parties so I will not set out what happened in detail here but in summary.

Mr H found an advertisement online for cryptocurrency investments. They claimed to be specialists in crypto trading and as this was of interest to Mr H, he completed a contact form.

A representative of a company which I will call B contacted Mr H and he was convinced to install remote access software which would allow B to trade on his behalf. Funds were sent from bank accounts Mr H held to a number of different crypto exchanges, the funds were used to buy crypto. The crypto was then transferred to B. Over £90,000 was sent to B between July and December 2020 from Mr H's Nationwide account via debit card and faster payments.

Mr H's "trading account" initially showed that he was making a profit. During the scam Nationwide blocked Mr H's account, Mr H then carried on sending funds to the scammer via other banks. Eventually Mr H tried to withdraw his funds from B but he was unable to do so. B said that he had to deposit more funds in order to withdraw what he had in his account and at that point after back and forth between Nationwide, the police and Mr H, Mr H realised he had been scammed

Nationwide agreed that it should have intervened on the second payment that was made to B in July 2020. It therefore paid Mr H a 50% refund on the basis that it believed that Mr H contributed to his own loss.

One of our investigators looked into this matter and they thought that Nationwide's offer was fair. Mr H disagreed and therefore his complaint was passed to me to issue 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.

The circumstances of this complaint are not in dispute and the evidence provided by both Mr H and Nationwide set out what happened. What is in dispute is whether Nationwide should refund any more of the money Mr H lost because of the scam.

Mr H has accepted he authorised B to make the payments he made to B, so the starting point here is that Mr H is responsible for making the payments. However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

Both parties agree that Nationwide should have intervened earlier so all I need to decide is whether Nationwide refunding 50% of the value of the transactions from July 2020 is fair given the overall circumstances of this complaint.

In relation to when the intervention should have happened, I agree that it should have been the transaction of £6,225 on 29 July 2020 as the only transaction prior to this was for a small amount that I don't think should have prompted an intervention.

I will next consider whether an intervention earlier in the scam would actually have changed Mr H's decision to carry on with the transactions. Mr H says he was coached on the answers to give to Nationwide and that B had told him that Nationwide wanted to prevent transactions to Crypto exchanges because they wanted to retain consumers funds. So, there is some doubt as to whether an earlier intervention would have uncovered that Mr H was being scammed. Especially as from what I can see Mr H was not entirely forthcoming about what was happening during his interactions with Nationwide.

But even were I to be satisfied that it was more likely than not that Nationwide would have had concerns that Mr H was being scammed, I need to consider whether Mr H would have carried on regardless. In this instance I can see that Mr H was extensively warned during a call with Nationwide in April 2021 that he was being scammed. Despite this Mr H continued to send further transactions to the scammer via other banks. So, I think it is possible that an earlier intervention by Nationwide would not have stopped the scam.

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their actions. In this case, it is not clear what research if any Mr H did prior to investing and given the sums involved I would have expected him to have completed due diligence prior to investing. I note that there were a number of reviews online prior to when Mr H started to invest saying that B was a scam so even a basic search online should have alerted Mr H to the possibility that B was not a legitimate company.

The returns that Mr H says he was promised were unrealistic which again should also really have been a red flag for Mr H. He also allowed a third party that he did not know to have full remote access to his computer. So overall, I don't think he's taken the steps we would expect a reasonable consumer to take to safeguard his account and money. So, I think that Mr H actions did contribute to his own loss.

I have thought about whether Nationwide did enough to recover the funds that Mr H lost. The payments were made to crypto exchange accounts in Mr H's own name before being used to purchase crypto which was sent on to B. I don't think that Nationwide could have recovered the funds by a chargeback for the debit card payments as he received the goods he paid for. In relation to the transfers the Contingent Reimbursement Model does not apply as the funds went between two accounts in Mr H's own name.

So, taking everything into account given that I have doubts that an intervention from Nationwide would have stopped the scam and that I am satisfied that Mr H contributed to his own loss, I think what Nationwide have already paid is sufficient. So, I do not uphold this complaint as I don't think Nationwide needs to do anything further.

My final decision

For the reasons given above, my decision is that do not I uphold this complaint as Nationwide has already paid compensation that is fair and reasonable.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 15 December 2023.

Charlie Newton
Ombudsman