

## **The complaint**

Ms P complains that National Westminster Bank Plc ('NatWest') won't refund the money she lost in an investment scam.

## **What happened**

A representative has brought this complaint on behalf of Ms P, however as the account is in Ms P's name – I'll refer to her throughout this decision.

In 2011, Ms P says she was contacted out of the blue by someone recommending an overseas investment in property development, through a company I'll refer to as F. Ms P says she was told that her capital would be safe and returned at the end of the investment and that she was guaranteed returns of 120% to 150%. Or, if she sold the land back to the development company, she would receive a return of between 20% to 50%.

Based on the information she had, Ms P decided to invest and wrote out a cheque from her NatWest account for £30,000. The cheque was made payable to C who were acting as escrow agents for F. The cheque debited Ms P's account in November 2011.

Ms P raised a fraud claim with NatWest in December 2022. NatWest told Ms P that she had raised her claim too late as it was more than 6 years since the cheque debited her account.

Dissatisfied with NatWest's response, Ms P brought a complaint to our service.

An investigator contacted NatWest and asked if they would consent to us looking into the complaint, explaining that Ms P wasn't aware that she had cause to complain until 2021 when the FSCS commenced investigations into C.

NatWest dropped their objection to us looking into the complaint. However, due to the time that has elapsed since Ms P issued the cheque, they have limited information they are able to provide.

An investigator looked into Ms P's complaint and didn't uphold it. The investigator felt NatWest should've intervened at the time the cheque was issued but didn't think NatWest would've uncovered that Ms P was potentially at risk of financial harm.

Ms P's representative disagreed with the investigator's opinion and asked for an ombudsman to review the case.

## **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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards;

codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

In broad terms, the starting position in law is that NatWest are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account and the Payment Services Regulations 2009 (PSR's). And it's not disputed that Ms P intended to make this cheque payment, although I accept that she did so as the result of a scam.

NatWest say that the cheque Ms P issued of £30,000 was regarded as high value and it would've been subject to technical checks. For example, that the date is within six months, the amount in words matches the number, the cheque is signed and the signature matches the signature held on file. NatWest also say they would've checked there were sufficient funds in the account to pay the cheque.

Based on the information that NatWest had available at the time Ms P's cheque was presented, I'm not satisfied that I can fairly say they should've intervened based on the rules, regulations and good industry practice in 2011. However, even if I did say they should've intervened, I don't think it would make a difference to the outcome I've reached. I'll explain why.

In 2011, C had a website and were operating while regulated and authorised by the Financial Conduct Authority (FCA). Having looked on online, there doesn't appear to have been any negative information available to suggest this investment was a scam and it's likely that Ms P would've seen articles which confirmed C was acting as escrow agents for F. I appreciate that F wasn't based in the UK, but they were registered and incorporated as a company in their home country. So, I think all of the information available at that time, would've suggested that Ms P was making dealing with legitimate companies.

While the return Ms P was promised, was too good to be true, I don't think this element on its own would've been enough to have caused concerned.

Ms P raised a concern about C only being incorporated in the UK five months prior to her making her investment, however they were registered and authorised by the FCA. She's also referred to online articles about land banking scams. But, based on what I've seen, I think the information that Ms P would've seen online about C and F would've reassured her that these two companies were legitimate, and she would've been reassured by C's involvement in the transaction.

I think it's worth noting too, that C wasn't dissolved until 2020 and F weren't declared bankrupt until 2020, which is almost ten years after Ms P made her investment. Also, in September 2020, the Financial Services Compensation Scheme (FSCS) started taking claims against C. The last update online from August 2021 was that they were still assessing claims. If Ms P hasn't already contacted FSCS to see if she's entitled to a refund, she may wish to do so.

I'm really to sorry to disappoint Ms P and realise that she's lost a significant amount of money, but I'm not satisfied that I can fairly ask NatWest to refund her.

### **My final decision**

My final decision is that I don't uphold this complaint against National Westminster Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 28 March 2024.

Lisa Lowe  
**Ombudsman**