

The complaint

Ms R complains that Nationwide Building Society (Nationwide) is refusing to refund her the full amount she lost as the result of a scam.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Ms R was using her laptop when an advertisement appeared regarding cryptocurrency investment with the company Falcon 365 (X). X appeared to be endorsed by well-known celebrities.

Interested in the opportunity Ms R provided her contact information and received multiple calls from X. X persuaded Ms R to invest promising guaranteed returns.

Ms R made the following payments as directed by X before realising she had fallen victim to a scam:

	<u>Date</u>	<u>Payee</u>	<u>Payment Method</u>	<u>Amount</u>
1	8 November 2021	Coindeck	Credit Card	£185
2	9 November 2021	Wolbit	Credit Card	£1,200
3	11 November 2021	Wolbit	Credit Card	£2,500
4	23 March 2022	Wolbit	Credit Card	£1,500
5	23 March 2022	Skrill	Debit Card	£500
6	29 March 2022		Credit	- £760.36
7	29 March 2022	Skrill	Debit Card	£9990
8	29 March 2022	Skrill	Debit Card	£8257
9	30 March 2022	Skrill	Debit Card	£10,000
10	30 March 2022	Skrill	Debit Card	£10,000
11	31 March 2022	Skrill	Debit Card	£5,000
12	4 April 2022	Skrill (not authorised)	Debit Card	£5,000
13	4 April 2022	Skrill (not authorised)	Debit Card	£6,000

When Nationwide investigated the disputed transactions, it found that Ms R had visited a Nationwide branch after payment four and said it should have intervened at this point. So, it agreed to refund all the payments Ms R made in relation to the scam from payment 5 onwards.

Following Ms R's complaint to Nationwide it also refunded payments three and four and increased its offer of compensation from £150 to £500 in recognition of it having to carry out a further investigation.

Our Investigator considered Ms R's complaint and thought it should be upheld in part. Ms R disagreed, so this complaint has been passed to me to decide.

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.

It has not been disputed that Ms R has fallen victim to a cruel scam. The evidence provided by both Ms R and Nationwide sets out what happened. What is in dispute is whether Nationwide should refund all the money Ms R lost due to the scam.

Nationwide has refunded payments three onwards so I will only be considering whether it should have refunded the first two payments as well.

Recovering the first two payments Ms R made

The payments were made into the scam via Ms R's credit card. When payments are made by credit card the only recovery option Nationwide has is to request a chargeback.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Ms R was dealing with X, which was the business that instigated the scam. But Ms R didn't make the debit card payments to X directly, she paid separate cryptocurrency exchanges. This is important because Nationwide would only have been able to process chargeback claims against the merchant she paid, not another party (such as X).

The service provided by the cryptocurrency exchanges would have been to convert or facilitate conversion of Ms R's payments into cryptocurrency. Therefore, they provided the service that was requested; that being the purchase of the cryptocurrency.

The fact that the cryptocurrency was later transferred elsewhere – to the scammer – doesn't give rise to a valid chargeback claim against the merchants Ms R paid.

Should Nationwide have reasonably prevented the payments Ms R made?

It has been accepted that Ms R authorised the payments that were made from her account with Nationwide, albeit on X's instruction. So, the starting point here is that Ms R is responsible.

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.

The question here is whether Nationwide should have been aware of the scam and intervened when Ms R made the payments. And if it had intervened, would it have been able to prevent the scam taking place.

The first payments made in relation to the scam were to legitimate businesses for relatively low values. Ms R had not made similar payments prior to this but it wouldn't be reasonable for me to suggest Nationwide should have concerns every time one of its customers makes a relatively low value payment to a new business.

I don't think it was unreasonable that the first two payments didn't trigger Nationwide's fraud prevention systems prompting it to intervene. So, I don't think Nationwide missed an opportunity to prevent Ms R's loss attached to the first two payments and it is not responsible for refunding this amount.

Overall Nationwide has offered compensation of £500 in addition to the payments it agreed to refund. I think this is reasonable in the circumstances of Ms R's complaint.

While I agree with the payments Nationwide has decided to refund it did not apply interest amounts in the way we would expect. Nationwide should have applied 8% simple interest to the amount it refunded in relation to the payments Ms R made via her debit card and refunded any credit card charges that were applied as a result of payments three and four.

With the above in mind, I uphold this complaint in part.

Putting things right

To put things right Nationwide Building Society should:

- Pay 8% simple interest on the amount it refunded in relation to the debit card payments Ms R made. Interest should be calculated from the date Ms R made the payments until the refund was made.
- Calculate and refund any interest charged to Ms R's credit card account for the transactions of 11 November 2022 and 23 March 2022.

My final decision

I uphold this complaint and require Nationwide Building Society to put things right by doing what I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 26 July 2024.

Terry Woodham
Ombudsman