

The complaint

Mr H and Mrs H complain about the actions of Yorkshire Building Society (YBS) when they were tricked into transferring money as a result of a scam.

Mrs H is the lead complainant to this service, so I'll refer to her throughout the decision.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here. In 2020 Mrs H was having building work carried out at her property. In January 2020 she sent £14,000 to her builder towards the cost of the work. Mrs H was then contacted in February 2020 from her builder's email address asking to make a further payment of £14,000. And on 29 February 2020 Mrs H made a further £14,000 payment to the bank details she was given by who she thought was her builder.

Mrs H spoke to YBS on 02 March 2020 to try and stop the payment and said her builder's email account had been hacked. But YBS told her to speak to the builder so he could first speak to his bank to see if anything could be done. Mrs H called back later that day and YBS then raised the claim as a scam and contacted the beneficiary bank. YBS investigated the claim and decided that it didn't do anything wrong when the payment was released. But it did say it could've provided a better service when the scam was raised and investigated, so it offered £145 compensation.

Mrs H remained unhappy so she brought her complaint to the Financial Ombudsman. YBS reviewed the complaint and made a further offer of compensation bringing its total offer to £275. Our Investigator didn't think the payment was sufficiently unusual or suspicious for YBS to stop it and ask questions of Mrs H about it. And that the £275 YBS had offered was fair for the service it had provided.

Mrs H didn't agree and asked for an Ombudsman's review. She said YBS should've done more to stop the payment and that she was surprised that such a large payment could be sent so easily without any further checks. Mrs H added that if YBS has raised the scam in a timely fashion when she first contacted it on 02 March 2020, she would've received her money back.

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've reached the same conclusion as our investigator – that this complaint should be upheld in part. And for largely the same reasons. I'm sorry to hear that Mrs H has been the victim of a cruel scam. I know she feels strongly about this complaint and this will come as a disappointment to her, so I'll explain why.

Where the evidence is incomplete, inconclusive, or contradictory, I have to make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

I've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

It is common ground that Mrs H authorised the £1,000 scam payment. I accept that this was an authorised payment even though Mrs H was the victim of a scam. She provided valid instructions through her online banking. So, although it wasn't her intention to pay money to the scammers, under the Payment Services Regulations 2017 (PSRs) and the terms of her account, Mrs H is presumed liable for the loss in the first instance.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for YBS to take additional steps or make additional checks before processing a payment in order to help protect customers from the possibility of financial harm from fraud.

YBS's first obligation is to follow the instruction that Mrs H provided. But if that instruction is sufficiently unusual or uncharacteristic for the account, I'd expect YBS to intervene and to ask their customer more about the intended transaction before processing it. I'd also expect YBS to provide suitable warnings, if they do stop a transaction, about common scams to help their customers make an informed decision as to whether to continue with the payment. There might also be cases where it's appropriate for YBS to refuse to follow the instruction if there are good grounds to believe it is being made as a result of a fraud or scam.

The starting point here is whether the instruction by Mrs H given to YBS to transfer £14,000 was unusual in relation to her typical account activity. So, I've reviewed the account statements for the six months prior to the scam payments being made. I think this gives a sufficient sample size to fairly assess the activity. The account was used sparingly and typically maintained a high balance with over £40,000 left in the account after the second £14,000 payment was made to the scammer.

There was also a genuine transfer to Mrs H's builders for the same amount the month before the scam payment. I accept the second payment was to a different account but there is a balance to be struck between stopping and checking payments and allowing customers free access to their money. And I'm satisfied that the earlier payment to Mrs H's genuine builder established a pattern of spending on her account where it wasn't unusual for her to send larger payments from time to time.

As a result, in this case, I don't think it's reasonable to have expected YBS to have intervened.

Putting things right

YBS incorrectly told Mrs H to speak to her builder before it raised the scam. So whilst it's possible that the scam should've been raised slightly sooner than it was, I don't think it makes a difference here. That's because I've received evidence from YBS which confirms that Mrs H's money was received in the beneficiary account on 01 March 2020 and then transferred out the same day. So, when the scam was raised with YBS the following day the money was no longer in the account.

YBS has admitted it didn't provide the service it would expect here. It's offered a total of £275 compensation to Mrs H. I understand the distress that this situation has caused – but ultimately, it's the scammer that has caused this issue. And, as I've explained above, I don't think YBS treated Mrs H unfairly when allowing the payment to be sent. YBS has said it could've communicated more clearly with Mrs H when the scam was raised, but for the reasons I've explained, this didn't make a difference to whether or not Mrs H could've had her money returned. So, I think YBS's offer to pay £275 is fair.

So, I'm not going to ask YBS to do anything more here.

My final decision

My final decision is that I uphold this complaint in part. Yorkshire Building Society has already made an offer to pay Mr H and Mrs H £275 compensation in total for this complaint and I think this offer is fair in all the circumstances.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and Mrs H to accept or reject my decision before 20 October 2022.

Mark Dobson
Ombudsman