

The complaint

Ms K complains that Bank of Scotland plc ('BoS') hasn't refunded her for payments she sent to four investment scams.

What happened

The details of this complaint are well known to both parties, so I will not repeat them again here. The facts are not in dispute so I will focus on giving the reasons for my 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.

Having done so, I agree with the conclusions reached by the investigator for these reasons:

- Ms K did send a large amount of money to these scams and the amount she sent did escalate, so I agree that her payments ought to have triggered an intervention by BoS. Our investigator said this should've happened in April 2016. I consider it should've been a few payments later in May 2016 – when Ms K sent a £9,623.32 payment to the first scam firm. However the date of the intervention in this case doesn't impact the overall outcome I'm reaching.
- I say this because I agree with the investigator that an intervention by BoS wouldn't have unravelled the two scams Ms K was involved in around this time.
- Ms K has set out the research she did into the first scam and why she was persuaded that they were a genuine firm. In 2016, binary options investments were regulated by the UK gambling commission and hadn't yet been banned by the FCA, so the information and warnings given by BoS in an intervention call wouldn't be the same as what we'd expect at a later time.
- I accept that BoS had a duty of care towards Ms K, but I don't think it asking her questions about the firm she was paying or giving her scam education would've meant she realised she was a victim. Her representative has described how she was completely under the spell of the first scammer and confident with the second. And she had gathered intelligence from people in a local trading community, which further convinced her these opportunities were genuine.
- Ms K has also explained the good reviews the firm her May 2016 payment went to had, and that her research persuaded her they were genuine and professional. She'd also been investing with them for a number of months at this time and seen returns into her account.

- BoS wouldn't have known or been able to tell her she was being scammed. It could only ask questions and give her information and a warning on investment scams, which I consider she wouldn't have felt applied to her situation.
- I also note that when she did discover her second investment opportunity wasn't genuine, she went on to be scammed twice more. So even being the victim of an investment scam and losing a large sum didn't lead her to do further research into these opportunities before sending her funds. So I'm not persuaded information from BoS could, or would, have persuaded her to do this at a time when her investments were seemingly performing; she'd had returns; and she had full trust in the firms she was paying.
- Ms K's representative has then gone on to discuss later opportunities that BoS missed in relation to intervening on these scams. However I'm not persuaded that BoS did need to intervene again after May 2016.
- Investing in the first two scams dramatically increased the regular spending on Ms K's accounts and changed what her usual pattern looked like. If things had gone as they should have, BoS would've spoken to her about payments to the first scammer, but as above, I think it's most likely she'd have continued sending these. The first scammer then becomes a regular and trusted payee. And payments to the other scams didn't exceed the amounts she sent to this first one, so wouldn't themselves have flagged as out of character or warranting an intervention call.
- The first evidence we've seen of Ms K reporting these scams is from years after they took place. So I'm also in agreement with the investigator that there are no recovery options for her. She paid on debit card, but would be out of time for any chargeback claims, and in any event, she's unlikely to have the evidence needed to support these.

My final decision

For the reasons set out above, I don't uphold Ms K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 20 April 2023.

Amy Osborne
Ombudsman