

The complaint

Ms S complains about how Bank of Scotland (“BOS”) handled a payment recall. She’s unhappy at the time it took for BOS to process a recall for the payment she’d made in error.

What happened

On 2 August Ms S mistakenly made a £5,000 transfer to a savings account where someone who had authority over the receiving account and would have access to this money and had been a perpetrator of domestic abuse. Ms S was extremely distressed about this and contacted BOS around midnight 3 August.

A BOS adviser explained to Ms S that once a payment had been sent it couldn’t be stopped and that it had to follow a process to recall the funds and that the team that deals with this had closed. During the call Ms S explained and it was clear her mental health was suffering, she was homeless and communicated suicidal thoughts – Ms S begged for something to be done. The BOS adviser acknowledged her distress and after taking some advice was able to raise a recall request outside of the normal process.

Due to Ms S’s distress a friend took over the call and asked if there’s anyway a hold can be put on the payment. The adviser explained this couldn’t be done as they don’t have access to the account directly nor could they tell if the money was still in the recipient’s account. The adviser confirmed the transaction had gone and this was reiterated to Ms S through her friend. The adviser also confirmed the recall form has been submitted and will be looked at first thing in the morning at 8.00am.

Ms S was very distressed in the background and following agreement with Ms S’s friend, the police are called due to safeguarding concerns surrounding Ms S’s mental health.

On 4 August Ms S contacted BOS again to get a further understanding of what was happening. Ms S was told that she would get the funds back within 20 working days and this was reiterated on a number of occasions.

Following this Ms S was advised the recall was on a ‘best endeavours basis’ and that the recall came back as a non-return as there were insufficient funds.

Ms S never got the money back and complained to BOS that it mis-lead her to believe she would.

BOS partially upheld Ms S’s complaint in relation to the mis-information it provided Ms S and offered her £100 compensation, but didn’t uphold her complaint regarding it not being able to retrieve the payment in error funds.

Ms S is unhappy with this. She says the money was backdated benefit payments and so being left without these funds has caused her to be in a difficult situation financially. Ms S wants BOS to refund her the money and brought her complaint to this service.

One of our investigators looked into Ms S's concerns and reached the conclusion that although BOS had initially advised Ms S correctly about the process that needed to be followed to recall funds, later advice had mis-lead her and thought given her vulnerabilities the impact this had was significant. They thought BOS should pay Ms S a further £200 compensation.

BOS accepted our investigators recommendation, but Ms S has asked for an ombudsman's 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.

It might help if I explain my role is to look at the problems Ms S has experienced and see if BOS has done anything wrong or treated her unfairly. If it has, I would seek – if possible - to put Ms S back in the position she would've been in if the mistakes hadn't happened. And I may award compensation that I think is fair and reasonable.

Ms S is unhappy about the amount of time it took BOS to process the recall of a payment she made in error and that she was misled into believing the recall would be successful.

Where a payment is made in error it's not always possible to get the money back. In order for this to happen the sending bank is reliant on the help of the recipient bank to send the money back. But nevertheless, we'd expect the bank – in this case BOS – to process a recall of the funds within a reasonable timeframe from when it was told about the mistaken payment. And it should be made clear to the customer that the recall is by no means guaranteed.

I've listened to the phone calls Ms S had with BOS regarding the payment made in error. And as explained in the background Ms S was clearly in some distress about what happened so BOS agreed to raise a recall request outside its normal process to speed things up.

Unfortunately, it was too late and the recall wasn't successful due to there being insufficient funds in the beneficiary's account and Ms S has been left without these funds making her financial situation very difficult.

I sympathise with Ms S but I can't say BOS made a mistake here – it didn't cause Ms S's financial difficulty and did all it could do, without delay, on being notified of the payment made in error. I think the actions BOS took here were appropriate and reasonable given the circumstances. So I don't think it would be fair to tell BOS to refund Ms S the funds she lost due to a mistake she made.

But that's not to say it did everything right. Following Ms S's initial contact with BOS and it starting the recall process, Ms S contacted BOS again to get a further understanding of what was happening. Instead of making it clear that a payment recall may or may not be successful, Ms S was incorrectly told (and this is not disputed) and assured the funds would be recalled within 20 working days.

Given BOS was informed of Ms S's situation and from the phone conversations it had with Ms S it was very clear the level of distress she was in and how vulnerable she was. I think it should have taken more care. BOS failed to manage Ms S's expectations regarding the payment recall resulting in further distress for Ms S.

So I think further compensation is warranted here and agree that the £200 recommended by our investigator would be a fair and reasonable way to settle Ms S's complaint. I accept this is not the outcome Ms S is hoping for, but even if BOS hadn't provided Ms S with incorrect advice and properly managed her expectations, this wouldn't have changed the overall outcome – Ms S's funds still wouldn't have been recalled.

As BOS has already accepted this, Ms S now needs to decide whether she will accept this offer to settle her complaint.

My final decision

For the reasons I've explained I've decided that what Bank of Scotland plc has agreed to do and compensate Ms S £200 is a fair way to settle Ms S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 19 October 2023.

Caroline Davies
Ombudsman