

The complaint

Mr P complains that TSB Bank PLC (TSB) is refusing to refund him the amount he 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, Mr P was introduced to an individual I will call X. Mr P met with X on several occasions. X explained that he used investors' money to buy probate properties and then divided any profits between them.

X appeared very professional; Mr P witnessed X taking part in calls seemingly related to the investment and was provided a list of properties that would be invested in. After knowing X for some time and believing the investment to be genuine Mr P decided to invest.

The following payments were made in relation to the scam:

Date	Payee	Payment Method	Amount
7 December 2017	X	Transfer	£10,000
13 April 2018	X	Credit	- £13,000
16 April 2018	X	Transfer	£20,000
16 April 2018	X	Transfer	£8,000
21 August 2018	X	Transfer	£3,000

Our investigator considered Mr P's complaint and didn't think it should be upheld. Mr P 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 Mr P has fallen victim to a cruel scam. The evidence provided by both Mr P and TSB sets out what happened. What is in dispute is whether TSB should refund the money Mr P lost due to the scam.

Recovering the payments Mr P made

The payments Mr P made in relation to the scam were made by the method of transfer. When payments are made in this way the only option TSB has to recover them is to request a refund from the receiving bank, if any funds remain in that account. However, I don't think it was unreasonable that TSB didn't attempt this method as Mr P made his complaint about the payments to TSB several years after they were made, and it's unlikely any funds would remain.

Should TSB have reasonably prevented the payments Mr P made?

It has been accepted that Mr P authorised the payments that were made from his account with TSB, albeit on X's instruction. So, the starting point here is that Mr P 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 TSB should have been aware of the scam and stepped into question Mr P about the payments he was making. And if it had questioned Mr P, would it have been able to prevent the scam taking place.

The payments Mr P made in relation to the scam were significant in value so I think it would have been reasonable to expect them to trigger TSB's fraud prevention methods prompting it to step in and question Mr P about the payments he was making. But I don't think this would have made a difference.

Had TSB stepped in, I have no reason to believe Mr P would have given dishonest answers to the questions it posed. Mr P would have likely explained he was making payments to X, an individual he had been recommended to, and met in person at what appeared to be his home, in relation to property investment. Mr P had also carried out some research on the type of investment (however minimal).

I don't think this would have caused TSB any concerns. TSB may at a stretch have advised Mr P to research X in more detail but had Mr P carried out further research it's unlikely he would have found any negative information as I can't see anything recorded around the time the payments were made.

With the above in mind, I don't think TSB missed an opportunity to prevent the scam and it's therefore not responsible for Mr P's loss.

Mr P has told us that TSB should have done more to protect him. Had TSB intervened Mr P would have expected it to uncover the scam, had it discussed the payments with him after all it is the "expert". Mr P has also pointed to several past decisions made by our service to support his view and said he would have provided additional evidence to TSB at the time.

Mr P's complaint has been reviewed on its own merits and I am unable to discuss the merits of other complaints in this decision. As I've said above, I don't think an intervention by TSB would have made a difference. Had TSB intervened I would not have expected it to delve into the investment proposition in detail and asked for further supporting information, as it would not be looking to give advice or consider whether the investment was a good option or not, it would only be looking to warn Mr P of a potential scam based on the questions it would ask.

Mr P was investing with what appeared to be a genuine business in a genuine investment opportunity and I think it would have appeared genuine to TSB, as it did Mr P at the time.

While I accept Mr P has fallen victim to a scam through no fault of his own, for the reasons I've explained above Mr P's additional comments don't change my decision on this complaint and I am unable to hold TSB responsible for his loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 15 March 2024.

Terry Woodham
Ombudsman