

## The complaint

Mr G complains that Coventry Building Society ('CBS') failed to do enough to protect him when he fell victim to a crypto investment scam.

## What happened

Mr G was contacted by a woman, who I'll refer to as "C" on an online dating platform. After a few weeks of contact and building what Mr G believed to be a genuine romantic relationship, C shared that she was a financial adviser and was making significant profits trading in Forex. Mr G was persuaded to start investing. C advised Mr G to set up an account with a crypto exchange, which I'll refer to as "B", and transfer his funds from there to an investment trading platform. Transfers to B were made via another company, which I'll refer to as "S", who acted as a payment processor for B.

Mr G initially invested £100, which he paid using a credit card he held with another bank. He then started making transfers direct from his accounts held with CBS. Between 29 March 2022 and 8 April 2022 Mr G transferred £91,700 from his MoneyManager and ISA accounts held with CBS to B:

Date	Account	Transaction type	Amount
29 March 2022	MoneyManager	Faster Payment to B	£1,000
30 March 2022	MoneyManager	Faster Payment to B	£5,200
4 April 2022	ISA	Faster Payment to B	£20,000
5 April 2022	ISA	Faster Payment to B	£20,000
6 April 2022	ISA	Faster Payment to B	£13,000
7 April 2022	ISA	Faster Payment to B	£20,000
8 April 2022	ISA	Faster Payment to B	£12,500
<b>Total</b>			<b>£91,700</b>

Mr G saw good returns on his initial investments and was able to withdraw £708.93 from the trading account on 31 March 2023, which reassured him the investments were genuine.

Before processing Mr G's transaction on 4 April 2022, CBS contacted him to ask what the payment was for. Mr G confirmed that he intended to invest in Forex, that he'd done it before and had made profits. He also confirmed that he was not being forced to make the payments by anyone else. Based on Mr G's answers CBS processed his payment instruction. CBS had no further contact with Mr G before processing his other payment instructions.

Mr G saw his investments continuing to make profits, but when he tried to make a withdrawal from the trading account, he was advised that he needed to pay 40% tax, and that it could not be covered from the funds in the account. At this stage Mr G realised he'd been the victim of a scam. Mr G was able to recover £12,498 from his crypto wallet account, as he had not yet transferred it to the trading account (I have assumed this amount was £2 less than his payment in due to processing fees charged by B). He was not able to withdraw any further money from the trading account. Meaning his total loss to the scam was £78,491.07, taking into account the £708.93 he'd successfully withdrawn. Mr G later complained to CBS

that it hadn't done enough to protect him from falling victim to the scam.

CBS considered what had happened but said it would not reimburse Mr G for the money he had lost. It said it had contacted Mr G before he made the first £20,000 payment and it had warned him about scams and that he could lose money. It also noted that the payments all went to a crypto wallet account that Mr G owned and controlled.

Mr G was unhappy with CBS's response and referred his complaint to the Financial Ombudsman, with the help of a professional representative (I'll refer to as "R"). Our Investigator didn't uphold the complaint. While he agreed CBS's intervention could have gone further, he wasn't persuaded it would have made a difference to Mr G's decision to invest. Our Investigator thought the fact that Mr G had built what he thought was a romantic relationship with C would have led him to trust what she had told him and so he would most likely have continued to invest regardless of CBS's intervention.

R disagreed on Mr G's behalf and asked for this complaint to be referred to an Ombudsman for a final decision. It said CBS's intervention did not go far enough to understand the risks of Mr G's proposed payments. It should have asked detailed open questions to understand what the fraud risk was. Had it done so it would have established that Mr G was making payments to a crypto exchange and that he'd been introduced to the investment by someone he'd only recently met on a dating website. At this point the scam would have been exposed and Mr G's loss avoided.

I issued my provisional decision on 13 July 2023 explaining why I was minded to uphold Mr G's complaint. I have set out my provisional findings below, but in summary, I explained that I considered that had CBS intervened as I'd have expected it to before processing Mr G's £5,200 payment the scam could have been uncovered and his losses from that point could have been avoided:

*What I've provisionally 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.*

*Like our Investigator, I think CBS's intervention when Mr G attempted his first payment of £20,000 didn't go far enough in understanding the reason for Mr G's payment or the potential risks involved with it. But unlike our Investigator, I consider that had CBS intervened as I would have expected it to, I think it's more likely than not the scam would have been uncovered and Mr G's losses would most likely have been prevented.*

*It is accepted that Mr G authorised the payments from his CBS accounts into his crypto wallet, which were then transferred into the control of the scammers. So, although he didn't intend the money to go to the scammers, under the Payment Services Regulations 2017 and the terms and conditions of his account, Mr G is presumed liable for his loss in the first instance. And under the terms and conditions of the account, where a valid payment instruction has been received CBS's obligation is to follow the instructions that he provides.*

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

*This service has referenced the relevant rules, codes of practice and good industry practice in many previous decisions published on our website. So, I won't repeat them here.*

*While CBS's first obligation is to follow Mr G's payment instructions, if an instruction is sufficiently unusual or uncharacteristic for the account, I'd reasonably expect it to intervene and ask questions about the reasons for making the payment before processing it. I'd also expect it to provide appropriate warnings about common scams to help its customers make an informed decision whether to continue with the payment or not. There might also be cases where it would be reasonable for a bank to refuse to follow a payment instruction if there were sufficient grounds to believe it was being made because of a fraud or scam.*

*I should note that this duty applies whether the loss occurred from CBS's account, or at some later point in the payment journey. So, while I understand that CBS has suggested it is not responsible for Mr G's loss as the funds were transferred to a crypto wallet in his own name, this does not absolve it of its responsibility to intervene if it had grounds to believe its customer was at risk of financial harm from fraud. Mr G's losses, though not arising from the initial transfer, ought to have been within the contemplation of, and reasonably foreseeable to, CBS. So, I'm satisfied it can be held responsible for the loss Mr G suffered.*

*CBS has demonstrated that it did have systems in place to identify unusual transactions or other indicators that its customers may be at risk of fraud. Indeed, it recognised unusual account activity and stepped in to question Mr G's transaction on 4 April 2022. The issue for me to decide is whether CBS's intervention was good enough.*

*Did CBS do enough to identify the risk of financial harm from fraud?*

*While it's good to see CBS had taken some steps to identify a transaction that was out of character for Mr G – the payment of £20,000 on 4 April 2022 - I don't think its intervention came soon enough, nor did its questioning go far enough.*

*Between 29 and 30 March 2022 Mr G had paid £6,200 to a new payee, which happened to be a crypto exchange. From the limited bank statements we've been provided with, I can't see that this was in keeping with Mr G's usual account usage. It appears that Mr G used his MoneyManager account to receive his wages and to make two regular monthly direct debits. There's no evidence of him making large payments from that account prior to 29 March 2023.*

*Similarly, his ISA account appears to have been used purely for savings prior to April 2023. While I can accept that a single large payment to a new payee may not appear, on its own, particularly unusual or suspicious, I think the second payment of £5,200 was sufficiently large (especially when combined with the payment from the day before) and out of character for Mr G to give CBS cause for concern that he may be at risk of financial harm. Yet I've seen no evidence that CBS intervened in any way before processing this payment on 30 March 2022.*

*CBS contacted Mr G before processing his payment instruction on 4 April 2022. By this stage there were clear warning signs that Mr G was falling victim to a scam and yet CBS' questioning didn't uncover the basic facts that would have highlighted this.*

*Having listened to the call, I note that Mr G sounded somewhat hesitant or nervous when he said that he was "putting [money] into foreign exchange". Yet the adviser accepted Mr G's answer without any follow up questions about his intended investment. CBS ought to*

*have asked Mr G probing questions about his proposed investment - such as how he'd heard about it, what his expected returns would be or whether he was being advised about the proposed investment. The purpose of these probing questions ought to have been to seek to break through the spell cast by a potential scammer.*

*Had Mr G been asked follow-up questions as I'd have expected, I think it's likely he would have revealed that he'd recently been introduced to the investment by a friend/ partner. I have no reason to think that Mr G would not have answered questions openly and honestly, especially given he had revealed he was investing in Forex and there's no evidence he was given a cover story. Given the prevalence of investment scams linked to romance scams, I think reasonable probing could also have uncovered that Mr G had only been in contact with C for a few months and they had never met face to face.*

*Had Mr G been asked where his payment was going it would have been uncovered that he was purchasing crypto that would then be used to invest in Forex. This ought to have given rise to further questions about why Mr G needed to transfer his money into crypto before investing in Forex. Further reasonable probing would also have uncovered that Mr G's experience of investment was only in the days leading up to this significant payment, and so he wasn't an experienced investor. His returns from the investment (£708.93 on 31 March 2023) had also only been made in the recent days. CBS ought to have been aware that it's not unusual in scams such as this for a consumer to receive returns early in the scam, as this helps to build trust and encourages them to make more payments. So, the fact that Mr G had invested before and had received some small returns, should not have been enough to reassure CBS that Mr G wasn't being scammed.*

*While the adviser also gave Mr G a generic warning about fraud and scams, and that his money could be at risk, she didn't offer a tailored warning regarding the specific risks around crypto investment scams. I don't think the generic warning was specific enough to have resonated with Mr G that he may have been falling victim to a scam.*

*Overall, I'm not persuaded CBS's level of questioning went far enough here. While I accept that the payment purpose given by Mr G was plausible, CBS ought to have been aware of the scam risks surrounding Forex investments and payments to crypto exchanges. As such I think it should have done more to protect Mr G. It was the expert, but it failed to seek sufficient information to understand the nature of Mr G's payments. Had it intervened appropriately, I think it would have recognised that the payments Mr G was attempting to make bore hallmarks of a crypto investment/romance scam. In the absence of any evidence to suggest otherwise, I think Mr G would most likely have heeded the warning from his bank advising him his payments were likely the result of a scam. I think Mr G's losses from that date onwards could therefore have been prevented.*

*Should Mr G bear some responsibility for his loss?*

*I have thought carefully about whether Mr G should bear some responsibility for his loss by way of contributory negligence (which might justify a reduction in compensation). But I don't think he should.*

*Unfortunately, Mr G fell victim to a cruel and sophisticated scam, where social engineering techniques were used to manipulate him. In the circumstances I don't think Mr G's actions, or inactions, fell far below the standard of care expected of a reasonable person. Overall, I think a reasonable person could similarly have been persuaded to invest in what, on the face of it, appeared to be a good investment opportunity and that was seemingly providing returns.*

*Ultimately, CBS was best placed to warn Mr G of the risks associated with his proposed*

*payment, but it failed to do so.*

*Overall, I think CBS should have intervened before processing Mr G's payment of £5,200. Had it done so, I think it's more likely than not Mr G would have decided not to go ahead with the payment and his losses from that point could have been prevented.*

*To put things right I am currently minded to tell CBS to refund the £77,491.07 Mr G lost to the scam from 30 March 2022 onwards. It should add 8% simple interest, per year, from the date each payment was made to the date of settlement.*

R responded on Mr G's behalf, confirming his acceptance of my provisional decision. CBS did not understand why I had reached a different view to that of our Investigator and asked that I consider some further points. In summary it said:

- It noted Mr G had said he suffered from "crippling anxiety" and "freezes up" when on the phone. It suggested that this may have been the reason for him sounding hesitant or nervous.
- It had to be realistic about the level of probing questions it asked in any case. The adviser made an appropriate judgement call when she was reassured by Mr G's statement that he was an experienced investor and had received returns.
- It could not reasonably have known that Mr G's payment were going to a crypto provider, and it was unclear if Mr G was aware his funds would be converted into a digital currency.
- Even if it had done more to intervene, Mr G believed he was in a genuine and trusting relationship and no amount of probing or warnings would have broken the spell he was under.
- Mr G should bear some responsibility for the losses he suffered. The dating site Mr G used has lots of negative reviews which specifically refer to matches convincing users to invest in crypto. Mr G should have been more cautious before deciding to invest his entire life savings into investments recommended by someone he'd met less than a month before.

### **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'm not persuaded to depart from the conclusions I reached in my provisional decision.

Although neither party has responded to this aspect of my provisional decision, I remain of the view that Mr G's £5,200 payment on 30 March 2022 should have triggered. As such, I have focused on what would most likely have happened had CBS intervened as I'd have expected it to.

I accept there is a balance to be struck between identifying if a consumer is at risk of financial harm due to fraud, while enabling legitimate payments to be made with minimal disruption. But when a bank identifies a payment that is suspicious or out of character, it should ask enough questions to understand the purpose of the payment and if its customer is at risk of financial harm due to fraud if they were to carry out the payment.

My concern in this case is that when CBS did intervene regarding one of Mr G's later payments, it didn't ask sufficient probing questions to understand the purpose of the payment, and so CBS failed to utilise the opportunity it had to uncover the facts that pointed to this being a scam. For example, CBS has said that its adviser did not know that the

payment was going to crypto, because the payment appeared to be going to S. But crucially Mr G believed he was paying B direct, and the funds instantly credited his account with B. Had the adviser asked Mr G where his payment was going, I think it's most likely he would have said B, at which point CBS would have known he was purchasing crypto. This would then likely have set it on the path to discovering that the circumstances of Mr G's payment bore the hallmarks of a scam.

While it is not up to the Financial Ombudsman to dictate which questions CBS should ask, I think it could've, for example, asked how Mr G had found out about the investment opportunity in the first place, and whether he was being advised or assisted by a third party.

If CBS had asked such further questions and more of the surrounding context to the payment, I consider it's likely that Mr G would have revealed that the investment had been recommended by a friend/partner, that his previous payment had been loaded onto an online trading account (that is well known by banks to be used by scammers) and that he'd received profits in the last few days. I think these circumstances should have given CBS enough reason to be concerned that Mr G may be falling victim to a scam. Given that Mr G's payments were also going to B, a well-known crypto exchange, I think CBS should have provided a tailored scam warning given what it knew at the time about the increasing number of scams associated with crypto. I think it may also have been appropriate for CBS to have advised Mr G about the risks associated with romance scams, given the investment had been recommended by C, who Mr G had not met in person.

I've noted CBS's concerns that any intervention from CBS may not have been enough to break the scammer's spell, as Mr G believed he was in a genuine, trusting relationship. But even if CBS's warning was not enough to make Mr G doubt his relationship with C, I think it would most likely have been enough to break the spell regarding the investment. Mr G appears to have been a cautious inexperienced investor. He'd previously saved money in a cash ISA. When presented with the fact that his money would have been at risk if he went ahead with the payment, I think it's more likely than not Mr G would have decided this was too great a risk to take and he wouldn't have gone ahead with the £5,200 payment, or any of the payments that followed.

Finally, I've thought again about whether Mr G should bear some responsibility for his loss, and again I don't think he should. I appreciate there has been a rise in the number of scammers exploiting online dating sites, and as a result there has been a significant rise in the number of people falling victim to the same type of scam as Mr G. But I don't think it is reasonable to expect an individual to seek out reviews of the online dating site before deciding whether to make an investment. It's undisputed that Mr G believed he had made a genuine connection with an individual he met through the dating website. At this point the scammer exploited Mr G's vulnerability in the circumstances and groomed him so that the prospect of investing together seemed reasonable to him.

I appreciate that Mr G didn't do much, if any, independent research into the investment opportunity before making payments to it. But, having conducted my own research, I have not found any clear or compelling evidence at the time that would have revealed to Mr G that the investment opportunity was in fact a scam. So, I'm not persuaded Mr G's lack of due diligence led to his losses. But I nevertheless consider that CBS, as the expert in this situation, should have deduced from the circumstances that he was in fact falling victim to a scam, and it should therefore have taken steps to warn him of this.

### **My final decision**

For the reasons set out above, my final decision is that I uphold this complaint. I require Coventry Building Society to:

- Reimburse Mr G £77,491.07; and
- Add 8% simple interest to that sum from the date of the payment to the date of settlement, less any tax lawfully deductible.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 7 September 2023.

Lisa De Noronha  
**Ombudsman**