

The complaint

Mr T and Mrs T complain The Royal Bank of Scotland Plc didn't do enough to protect them when they fell victim to an investment scam.

What happened

Mr T and Mrs T have an account with RBS.

Between 11 and 13 March 2020 Mr T made five payments totalling £19,441.30 in relation to what he thought was a cryptocurrency investment. Mr T says he realised the investment was a scam after he was asked to pay a large fee in order to withdraw his money.

Mr T says he reported the scam to RBS in October 2020. RBS says this scam wasn't reported until March 2023. RBS says that Mr T did report a disputed payment in September 2020, but that this payment was unrelated and not part of this scam.

RBS says it looked into Mr T's claim and that it wasn't able to offer a refund. Mr T was unhappy and complained about RBS's decision, and ultimately complained to us with the help of a representative.

One of our investigators looked into Mr T's complaint and said that based on the limited available evidence it appeared that RBS had intervened when Mr T attempted to make a payment of £4,999 as that payment looked to be suspicious but Mr T had confirmed that payment was genuine. In the circumstances, given that the payments Mr M made weren't unusual in size compared to the account's normal usage, our investigator didn't think there was anything RBS could have done to prevent the scam and that it wouldn't have been able to recover any funds either. In other words, they didn't think that RBS needed to do more.

Mr T's representative disagreed saying that a payment of £5,000 or more would normally trigger an intervention and that payments to cryptocurrency were high risk so there should have been an intervention. Mr T's representative said the scam would have come to light had there been an intervention. So, they asked for Mr T's complaint to be referred to an ombudsman for a decision. His complaint was passed to me.

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.

I'm satisfied, based on everything that I've seen, that Mr T didn't let RBS know about this scam until March 2023. That means there is now very limited evidence to show what did and what didn't happen. For example, I can see that there is a note about RBS checking whether or not a payment Mr T wanted to make on 10 March 2020 – in other words the day before – was genuine, but the call to which that note relates no longer exists. That means I can't listen to the call and see what warnings, if any, RBS gave at the time or what discussions took place. That payment was going to the same platform that Mr T sent the first payment he says was part of this scam. I have, however, seen statements for Mr T's account around the time and I agree that he often made large payments. For that reason, I agree with our investigator that none of the payments were particularly unusual from a size perspective.

I accept that Mr T made four payments on 13 March 2020 – the first two were for £897.34 and £4,150 – taking the total he'd sent that day up to just over £5,000. And the next one was for £4,350 taking the total he'd sent that day up to £9,500. And the final one – of £1,000 – took the total sent that day up to £10,500. In some cases, three payments in a row to the same beneficiary might be considered unusual. Here there were four. But I don't think even that – given the large payments Mr T normally made and the call he'd had with RBS – is enough in this case to say that RBS should have intervened.

I agree – based on the evidence I've seen – that this was more likely than not a scam. And a scam with some of the typical hallmarks. That means an intervention would likely have led to the scam being uncovered and losses being prevented. But it wouldn't be fair to hold RBS liable for that given that I don't agree it had reason to intervene here.

My final decision

My final decision is that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T and Mrs T to accept or reject my decision before 13 March 2024.

Nicolas Atkinson
Ombudsman