

The complaint

Mr P complains that Bank of Scotland plc (“BOS”) have failed to refund money that he lost as part of an investment scam.

What happened

Mr P saw an advert for a trading company that I will call B which appeared to be promoted by a well-known financial celebrity. Mr P registered his interest and was contacted by a representative of B who persuaded him to make the following payments to an account held by a different provider which was in his name. The funds were then sent to a Binance account in Mr P’s name before being converted into crypto and sent onto B.

Mr P made the following payments via bank transfer;

Transaction Number	Date	Amount
1	7 March 2023	£5
2	7 March 2023	£1,995
3	4 April 2023	£400
4	10 April 2023	£1,845
5	10 April 2023	£3

Mr P then tried to withdraw the “profits” that he had made and when he was unable to do so he realised that he had been scammed

Mr P raised a complaint with BOS as he believed that it should have stopped him from making the payments in question.

One of our investigators looked into this matter and they decided that the payments were not sufficiently large enough or out of character to prompt an intervention from BOS and therefore the payments shouldn’t be refunded. Mr P did not agree and therefore his complaint has been passed to me to issue a final 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 the following reasons.

It isn't in dispute that Mr P authorised the disputed payments he made. The payments were requested by him using his legitimate security credentials provided by BOS, and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.

However, I've considered whether BOS should have done more to prevent Mr P from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transaction.

In this instance the payments in isolation were not large enough and the pattern of spending was not enough to be considered unusual or sufficiently out of character to have prompted an intervention from BOS.

So, having considered the payments Mr P made, I'm not persuaded there was anything that ought reasonably to have triggered BOS's fraud monitoring systems or that would have indicated he was in the process of being scammed. I therefore do not consider there to have been any obligation on BOS to have intervened. Given this I do not think that it could have uncovered and prevented the scam.

I've also thought about whether BOS did enough to attempt to recover the money Mr P lost. In this instance the Contingent Reimbursement Model (CRM) does not apply as the funds were sent to an account in Mr P's name.

Mr P has explained that he did not open the account with the other financial institution but based on the chat between him and the scammer he does agree to open an account with a different company as he could not link his Binance account with his BOS account. I am also satisfied that identification and various other things would have had to have been provided in order to open an account with the other company. But even if he did not open it, I think that he was aware and agreed to the payments being sent to it and onto Binance as part of the scam or I think he would have queried the payments earlier than he did. So, I am satisfied that the CRM does not apply in this instance.

I appreciate this will come as a disappointment to Mr P, and I'm sorry to hear he has been the victim of a cruel scam. However, I'm not persuaded that BOS can fairly or reasonably be held liable for his loss in these circumstances.

My final decision

For the reasons given above, I do not 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 27 June 2024.

Charlie Newton
Ombudsman