

The complaint

Mrs E complains that The Royal Bank of Scotland Plc ("RBS") hasn't done enough to protect her against the loss of money to a scam.

What happened

Mrs E says that in 2017 she was cold called by a person that I will call C. She attended a meeting with C who introduced Mrs E to a trading company called B. She says she made the following international transfers to B. Though I should add that given the different named payee and lack of information relating to the scam, it is possible that these were separate but linked scams.

Transaction Number	Date	Amount	Payee
1	25 April 2017	£1,000	Infiniti Markets
2	26 April 2017	£4,000	Infiniti Markets
3	7 May 2017	£15,000	Infiniti Markets
4	8 May 2017	£15,000	Infiniti Markets
5	11 September 2017	£10,030	Infiniti Markets
6	13 September 2017	£18,000	LRK Marketing
7	15 September 2017	£18,000	LRK Marketing

Some years later, Mrs E discovered that she had been scammed.

Mrs E reported to RBS that she'd been scammed in May 2023 via her representative. RBS declined to refund Mrs E's transactions. Mrs E, remaining unhappy, referred her complaint about RBS to us.

RBS said that the complaint about the first 4 transaction was brought too late and that transaction 5 had been investigated by the Financial Ombudsman Service in 2019. It did not object in us looking at payment 6 and 7.

Our investigator agreed that we could not look at the first 5 transactions and thought that RBS did not need to intervene during payment 6 and 7 as the payments were not unusual compared to Mrs E normal account activity.

Mrs E, via her representative, did not dispute that we could not look at the first 4 payments or that we had already considered payment 5. But Mrs E did not agree with the outcome in relation to payments 6 and 7 and therefore the case has been passed to me for 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.

I don't think RBS could reasonably be expected to have prevented the payments Mrs E says she lost to a scam. This is because at the time, generally banks were expected to process payments a customer authorised it to make. And under The Payment Services Regulations and terms and conditions of the account, Mrs E is presumed liable for the loss in the first instance, in circumstances where she authorised the payments.

However, I've considered whether RBS should have done more to prevent Mrs E from falling victim to the scam, as there are some situations in which it should reasonably have had a closer look at the circumstances surrounding a particular transaction. For example, if transactions were particularly out of character.

I can see that at the time of the transactions Mrs E had received a large amount of money into her account on several occasions and had made several large purchases and transfers out of the account.

In this context, the payments to B would not stand out sufficiently for me to conclude that RBS should have intervened when they were made. There were no warnings about B online at the time that I'm aware of. The payments were not done on the same day and were a similar size to legitimate payments made in the past. Even discounting the payments made that we can't look at (payments 1-5), I can see payments made on 12 September 2017 for £10,030 to what seems to be a different trading firm, payments in May 2017 of £7,066.73, £9,820 and £8,792 and a payment of £11,744 in January 2017. This means that this account had a history of large payments and therefore I don't think transaction 6 and 7 were sufficiently unusual to prompt an intervention.

This means that as RBS didn't interact with Mrs E at the time of the payments – and I've concluded that I can't reasonably say RBS ought to have been obliged to have contacted Mrs E about them – I'm satisfied RBS didn't unreasonably miss an opportunity to prevent the payments being made, before they were sent.

Additionally, I am not sure whether any intervention would have changed Mrs E's decision to carry on with the transactions. I say this because investment scams were not as common in 2017 and there were no warnings about B at the time the payments were made. So all RBS could have done if it had intervened was provide a generic warning. So even if I thought that RBS should have intervened, I don't think that it would have made a difference.

I have thought about whether RBS did enough to recover the funds once it was made aware of the scam. But when the transactions occurred, I don't think that the funds could have been recovered.

Overall, I have great sympathy for Mrs E and I understand that this will be really disappointing for her. But I can only recommend RBS refund the transactions if I think it did anything wrong and for the reasons above, I don't think that it did.

My final decision

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 22 May 2024.

Charlie Newton
Ombudsman