

The complaint

Ms M and Mr S complain that Allied Irish Banks Plc (AIB) won't refund payments that were made as part of a scam.

What happened

Ms M and Mr S have explained that they wanted to take their family away on a holiday and used the services of a travel agency I'll refer to as F. Ms M and Mr S were given promotional literature and discussed arrangements with F and were persuaded to book a holiday with a cost of £13,734.85. Within the information provided, F said it was registered with ATOL. A schedule of payments was provided and in July 2022 Ms M and Mr S made a debit card payment of £1,000 and an online transfer of £4,500 to F.

Ms M and Mr S made monthly payments of around £1,000 to F. The final payment was made on 23 March 2023 and, around a week later, Ms M and Mr S attempted to contact F as no information about the upcoming travel plans had been supplied. But Ms M and Mr S have explained that they were advised the call centre had stopped answering calls and were given a message that F had stopped paying staff. Ms M and Mr S have told us this led them to look online where they found other people who'd been scammed by F.

On 1 April 2023 Ms M and Mr S contacted AIB and explained they were concerned they'd been the victim of a scam. AIB says it looked into Ms M and Mr S' concerns and contacted the receiving bank for the account where their payments had been sent. But the receiving bank responded to confirm the funds had been withdrawn and were no longer available to be recalled. Ms M and Mr S complained and AIB issued a final response on 18 April 2023.

AIB's final response listed the payments made via online transfer totalling £12,734.85 and a the debit card payment of £1,000 made between 16 July 2022 and 23 March 2023. AIB said none of the payments Ms M and Mr S had made were picked up by its fraud prevention systems as suspicious. AIB said that as all the payments were authorised by Ms M and Mr S it wasn't willing to refund them. AIB was later able to refund the £1,000 card payment Ms M and Mr S made following a successful chargeback claim.

Ms M and Mr S referred their complaint to this service and it was passed to an investigator. In their complaint submission, Ms M and Mr S explained they'd found other consumers who were victims of F via social media. Ms M and Mr S explained that where those peoples' banks had signed up to the Contingent Reimbursement Model Code (CRM) their payments had been refunded. Ms M and Mr S advised that they feel it's unfair that as AIB hasn't agreed to follow the CRM their claim has been treated differently and the vast majority of their funds weren't recovered.

The investigator was satisfied Ms M and Mr S had authorised the payments in question in line with their account's terms and conditions. The investigator noted that the initial payment of £4,500 in July 2023 had been set up and authorised using Ms M and Mr S' card reader. And from that point, F was a known beneficiary they were paying each month. The investigator thought that even if the payments had been highlighted by AIB for further checks with Ms M and Mr S they would most likely have still been authorised on the basis they were

satisfied the travel agent was legitimate at the time. The investigator noted that it was only at the end of March 2023, when all the payments had been made, that Ms M and Mr S first became concerned they were the victims of a scam. The investigator didn't ask AIB to refund the online transfers made to F but noted the debit card payment of £1,000 had been refunded.

Ms M and Mr S asked to appeal, so their complaint has been passed to me to make a 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.

In their submissions to us, Ms M and Mr S have pointed out that unlike some banks, AIB hasn't signed up to the CRM which could've given them additional protection. They've also pointed out that future changes to legislation mean all banks will need to adhere to the CRM approach when dealing with disputes of this nature. I take Ms M and Mr S' point. But at the time of making the payments and complaint, AIB hadn't subscribed to the CRM which is a voluntary code. So whilst some banks may've voluntarily agreed to follow the CRM approach when dealing with disputed payments, there was no obligation on AIB to do so. Again, I understand future changes may change AIB's approach, but I have to take the relevant rules into account at the time the payments were made. As AIB wasn't signed up to the CRM during the period when Ms M and Mr S' payments were made, I'm satisfied it doesn't apply in this case.

Ms M and Mr S have told us the account has been open for many years and that they're loyal customers of AIB. They've also said AIB should've specifically told them it hasn't signed up to the CRM so they could make an informed decision concerning whether to use their account to make these payments. But it appears the CRM was introduced after Ms M and Mr S' account was opened and that they were already customers at that time. Whilst I acknowledge AIB may not have specifically advised Ms M and Mr S it hadn't signed up to the CRM, I'm not persuaded that was unfair. I think the investigator made a reasonable point when they said that if CRM cover was a priority for Ms M and Mr S when deciding whether to use their AIB account to make these payments they could've checked online or directly. And, having looked at AIB's website, I'm satisfied there's no claim it is subject to the CRM.

Whilst AIB wasn't signed up to the CRM, it was still required to have systems in place to try and protect customers. Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider AIB should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud

Taking the above points into account, I'd have expected AIB to have had systems in place to monitor the account for unusual payments. I understand that the amounts Ms M and Mr S paid were significant to them. But, given their value, I wouldn't expect AIB to have specifically picked them up for additional checks before approving them in line with the instructions Ms M and Mr S provided. I would also add that whilst the overall sum lost was substantial, the payments were made in smaller amounts over a long period of time which isn't the typical behaviour we see when people are scammed. In my view, there wasn't anything that would've specifically highlighted these payments as suspicious to AIB.

I have gone on to consider whether an intervention by AIB during the period payments were being made would've made a difference and prevented Ms M and Mr S being the victim of a scam. Ms M and Mr S have provided lots of information that was given to them by F during the process of arranging the holiday. This includes confirmation of the travel arrangements on company headed emails. Full itineraries and details of the individuals travelling. The travel agent Ms M and Mr S were dealing with confirmed flights were arranged and accommodation booked. I can also see a theme park ticket was issued after payments started from Ms M and Mr S, although I've not been advised whether it was genuine. To me, the information provided looks professional and I'm satisfied Ms M and Mr S were content that they were dealing with a legitimate business.

I also think it's fair to add that at the time payments were being made, F was operating as a registered limited company and appears to have been booking holidays for some customers. Whilst I note Ms M and Mr S' comments about whether online reviews were genuine, I can see there were multiple good reviews of F's business that outweighed poor reviews. And I have no way of verifying what Ms M and Mr S have said about the online reviews they saw.

Overall, I haven't been persuaded that an intervention by AIB during the period Ms M and Mr S were making payments would've changed the overall outcome. Given the amount of what appeared to be legitimate information given to Ms M and Mr S during the sales process and period that followed, I'm satisfied it's more likely than not that they would've decided to proceed with the payments AIB was instructed to make.

I can see that AIB attempted to recover the payments from F's bank but was told the funds had been quickly withdrawn so weren't available. So by the time Ms M and Mr S found out, it was too late for AIB to stop the payments or retrieve the majority of their funds from F. AIB's confirmed it was able to arrange a refund for the £1,000 debit card payment Ms M and Mr S made to F via a chargeback. I'm satisfied AIB made reasonable attempts to recover Ms M and Mr S' transfers but was ultimately unsuccessful.

I'm very sorry to disappoint Ms M and Mr S as I can understand how distressing their experience has been. But as I haven't been persuaded that AIB acted unfairly by approving the payments they were instructed to make and I'm satisfied it made reasonable attempts to recover Ms M and Mr S' funds I'm not telling it to take any further action.

My final decision

My decision is that I don't uphold Ms M and Mr S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M and Mr S to accept or reject my decision before 22 February 2024.

Marco Manente
Ombudsman