

## **The complaint**

Mr T complains The Royal Bank of Scotland Plc (RBS) won't refund the money he lost when he fell victim to a scam.

## **What happened**

In mid-2023, Mr T told RBS he had fallen victim to a cryptocurrency scam involving payments to a company I'll refer to as "B". RBS found he had made a series of payments to B between April and May 2021. But it said the company provided him with a cryptocurrency wallet. So, when he paid money to B from his RBS account, the money was still in his control.

Mr T complained to RBS, as he thought it should refund him for the payments. RBS refused, so he referred the matter to our service. Our investigator looked into things and – and didn't uphold the complaint.

Mr T said the scam had been perpetrated by another company, D. The investigator wasn't able to locate much information about D to determine whether or not it was legitimate. But even accepting the funds were lost to a scam, the investigator didn't think RBS had cause to be concerned at the time of the payments – as they weren't for particularly large amounts and were going to a legitimate merchant. They didn't think RBS was liable for the loss.

Mr T replied to appeal the investigator's outcome. They asked if he had any further records of the scam. He provided some emails from D – but they were from late 2022, whereas the disputed payments were from mid-2021. So, the investigator didn't think they affected the outcome. Mr T has now asked for an ombudsman to review his complaint.

## **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. I'll explain why.

In line with the Payment Services Regulations 2017 (PSRs), RBS is expected to execute authorised payment instructions without undue delay. Although Mr T says he was tricked into making the payments, it's accepted he authorised them. So the starting position is that he is liable for them.

That said, there are circumstances when it might be appropriate for RBS to take additional steps before processing a payment. Such as when there are grounds to suspect it presents a fraud risk. That might occur when a payment is significantly unusual or uncharacteristic compared to the normal use of the account. And/or if the account activity fits a known pattern of fraud. If RBS failed to take further action when it should have done, and that action would have prevented Mr T from incurring fraudulent losses, it might be fair to hold it liable.

In this case, I agree with the investigator it's unclear how or whether these payments were lost to a scam. The merchant paid directly, B, appears to have provided Mr T with a cryptocurrency wallet. While I'm aware of scams where consumers are tricked into setting up/moving funds to a wallet, in order to facilitate an onward payment to a scammer – I've not seen enough to substantiate whether that is what happened here.

Mr T named D as the scammer. But the records he has provided of his contact with D significantly postdate these payments. And I haven't seen anything further to show the funds were moved on from B – or where they were sent. Overall, what Mr T has told us/provided doesn't provide a clear picture of the full circumstances in which he made these payments.

As things stand, I don't have enough to show the payments were lost to a scam. But even if I had information confirming this, I still don't think it would be fair to hold RBS liable.

That's because I agree with the investigator that, at the time of making the payments, I don't think RBS had cause to suspect they carried a heightened fraud risk. Looking at Mr T's account activity, I don't think any of the payments looked particularly uncharacteristic. For example, the size of the payments didn't look out of line with other payments Mr T was making. And the destination wouldn't have caused concern, as it was a legitimate merchant.

Overall, even if these payments were lost to a scam – I don't think RBS ought to have realised and prevented this at the time. I think it was reasonable that it simply followed Mr T's authorised payment instructions without taking further action, in line with its regulatory duty. As I don't think the loss was caused by a failing on RBS's part, I decided it wouldn't be fair to hold it liable for Mr T's loss.

### **My final decision**

For the reasons given above, my final decision is that I do not uphold this complaint.

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

Rachel Loughlin  
**Ombudsman**