

The complaint

Mr M has complained Bank of Ireland (UK) plc did nothing to intervene and stop payments he made which turned out to be part of a cryptocurrency investment scam.

What happened

In 2023 Mr M became aware of investment opportunities through social media and got in touch with the company (who I'll call N).

Someone from N helped him to start trading and investing cryptocurrency using an account (with a bank I'll call R) and both his personal and business accounts Mr M held with Bol. Between 9 and 27 January 2023, Mr M transferred £60,500 from his Bol account to either his other bank or different wallets in his name. He'd also taken out loans to fund his investments.

After Mr M noticed his investments decline drastically in value, he realised he'd been the victim of a scam. He also noticed N had poor reviews and was subject to regulatory warnings.

Mr M engaged representatives who contacted Bol on his behalf to complaint about the scam and Bol's lack of intervention.

Bol never properly responded to Mr M but said they'd tried to contact him on a number of opportunities, but he had ignored their attempts.

Mr M brought his complaint to the ombudsman service with the assistance of his representatives.

Our investigator confirmed he wasn't going to ask Bol to refund Mr M. He felt that whilst Bol could have done more, he noted that the evidence suggested Mr M would only have misled them to what was going on.

Mr M has asked an ombudsman to review his complaint. His representatives have continued to argue that Bol should not only have intervened but stopped the transactions Mr M was making.

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've reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

Mr M was scammed and has lost a considerable amount of money. He has my sympathy

about what he has gone through.

There's no dispute that Mr M made and authorised the 21 payments totalling £60,500 from his account with Bol to different wallets and other accounts.

I'm satisfied the disputed transactions were authorised under the Payment Services Regulations 2017

Our starting point is that banks are required to follow their customer's instructions. But, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in 2023 that Bol should:

- have been monitoring accounts and any payments made or received to counter various risks, including 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 firms are generally more familiar with than the average customer;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment;
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

I'm satisfied that Bol ought to have recognised that these payments carried a heightened risk of financial harm from fraud. There were also a couple of large loans made into Mr M's account which should have alerted Bol to taking appropriate action.

Therefore, I'm satisfied a proportionate response to that risk would have been for Bol to have intervened.

It is clear from the evidence submitted to our service by Bol that they tried to intervene during the payment journey. They contacted Mr M for further information and tried to understand what was going on. Our investigator's view details the information from the chat history which shows Mr M deliberately avoiding talking to his bank and unwilling to engage with them. I'm aware Mr M has seen this evidence so I don't need to go through this further.

I still wonder whether Bol's should have taken further action. But I also have to consider whether the attempted intervention of his bank – and their warning he was potentially involved in a scam – would have meant that Mr M would have stopped what he was doing.

I'm not convinced. I've looked at the detail of conversations between Mr M and N. It seems to me that Mr M was as much of a driver of the transaction activity as they were. He was upfront about intending to mislead his bank about what he was doing as he knew Bol would take a dim view of his actions. I think Mr M would be aware that Bol would issue further warnings about the type of activity he was involved in but he was not in the mood to listen to them.

Bol has argued that their geographical location makes their situation unique as a number of their customers use accounts with R for cross-border activities and payments to that account alone wouldn't have caused them to intervene.

Bol confirmed they wouldn't refund Mr M as many of these payments had gone to a wallet in his own name and control, as well as his own account with R. They have also confirmed that they tried to contact Mr M but found he wouldn't engage with them.

I'm aware that Mr M's representatives argue that Bol's intervention would have made the difference, and he would have stopped making the investments and payments to fund those. However, Mr M has told us he did carry out checks into N at the time he started and was satisfied they were above board. I'm not convinced Mr M carried out any of the checks I'd expect someone to make if they were planning to undertake the number of investments and spend the funds Mr M was.

Mr M's chat history with N shows someone who was determined to continue making the payments he felt were needed to secure the return on his investments. I think as this shows, he would have done all he could to ignore any warnings Bol presented to him.

Overall, I don't think it would be fair and reasonable to ask Bol to refund Mr M.

My final decision

For the reasons given, my final decision is not to uphold Mr M's complaint against Bank of Ireland (UK) plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 16 December 2024.

Sandra Quinn
Ombudsman