

The complaint

Mrs H complains that Yorkshire Building Society ('YBS') won't refund the money she lost after falling victim to a scam.

What happened

In September 2023, Mrs H was looking to buy a car. She found a suitable car on a social media site and contacted the seller. Mrs H says there were around 20 photos of the car, extensive details about the condition of the car and that the seller had been selling items on the social media site for a few years. Mrs H asked for a copy of the MOT, and the only problem listed was a nail in a type. The car was described as being in great condition.

Mrs H contacted the seller to check if the car was available, and it was. Mrs H was told that the car was in a warehouse and would be transported to her for £125 with a five day money back guarantee. The purchase price of the car was £4,200, excluding the transportation cost.

Mrs H made the payment from her YBS account in branch on 18 September 2023, for £4,325. Mrs H made the payment to C, which she believed was the company that was holding the car in the warehouse and would arrange for the delivery.

YBS had a discussion with Mrs H and say they had some concerns. YBS say they advised Mrs H to call the company she was paying, but she was unable to get them on the phone. Mrs H says YBS staff searched for C online and found it was a genuine company, which reassured her. YBS say Mrs H was given a fraud and scams leaflet which she read in branch. As Mrs H was happy to proceed with the payment, YBS followed her payment instructions.

The next day, Mrs H contacted the seller to get an update and was told that her payment hadn't gone through. Mrs H didn't want to make another payment, so she searched C online and saw that other people had been victims of a scam. So, she reported it to YBS and asked that they refund her.

YBS declined to refund Mrs H saying they had an obligation to make the payment in line with her instructions, so they weren't liable.

Mrs H wasn't happy with YBS's response, so she brought a complaint to our service.

An investigator looked into Mrs H's complaint and initially issued a view not upholding it. But, following a review with a senior colleague, they changed their position and issued a new view which recommended that YBS refund Mrs H 50% of the payment. The investigator felt YBS didn't do enough when they had concerns about the payment Mrs H was making and could've prevented her loss. But, the investigator also felt Mrs H should've been concerned about the price being too good to be true and hadn't done enough checks that it was a genuine offer. YBS had recovered £65.79, which would be deducted, before calculating the 50% refund.

Mrs H accepted the investigator's second view. YBS didn't. YBS raised the following points:

- Mrs H wanted to continue with making the payment, despite the concerns they raised with her.
- Mrs H was told to speak to C to confirm the bank details before making the payment.
- YBS can't fairly refuse to make a customer's payment or invoke the banking protocol without evidence of fraud.
- Mrs H was advised of the risk of purchase scams when buying off social media.
- It's not for YBS to tell a customer what checks they should do.

YBS asked for an ombudsman to review the case.

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.

YBS are not signed up to the Contingent Reimbursement Model Code (CRM Code), so I can't apply the provisions of the Code to Mrs H's payment. This also means that I can't consider vulnerability as set out under the CRM Code.

In broad terms, the starting position in law is that YBS are expected to process payments that a customer authorises it to make, in accordance with the terms and conditions of the customer's account and the Payment Services Regulations 2017 (PSR's).

But, 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 YBS should fairly and reasonably have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams.

Also, I'd expect YBS to have 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). And where a potential risk of financial harm is identified, to have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment.

Did YBS take appropriate steps in response to the concerns they had about Mrs H's payment?

YBS says they had concerns about the payment Mrs H was making in branch. So, they suggested Mrs H call C to check that the bank details were correct, which was an appropriate recommendation. However, Mrs H was unable to get hold of C on the phone number she had.

In this situation, I would've expected YBS to ask appropriate questions to identify the type of scam Mrs H might be falling victim to. I'd expect them to ask what she was making the payment for – buying a car. Then in response, I'd expect them to ask Mrs H how she'd found the car, if she'd completed any checks on the car, and whether she'd seen the car in person. I think Mrs H would've told YBS that she found the car on a social media site, hadn't seen the car in person, had seen pictures of the car and had obtained a copy of its MOT.

This should've identified to YBS that Mrs H could potentially be the victim of a purchase scam or invoice intercept scam. In response, YBS should've told Mrs H how she could protect herself from these scams including: checking the bank details with the company she

was paying, checking ownership documents for the vehicle, choosing a payment method that would provide more protection; for example, paying through the social media site's payment system (if they had one) or using a card.

The fact that Mrs H was unable to contact C using the phone number she had should've concerned YBS – and they say it did.

I'd like to point out that YBS are the professionals in this situation, not Mrs H. Mrs H wasn't aware of purchase scams, what she should be looking out for as the telltale signs or how she could protect herself. It's not reasonable for YBS to say they shouldn't tell a consumer what checks they should do, as there is an expectation on them to help protect their customers from the risk of financial harm from fraud.

YBS also say they couldn't refuse to make the payment for Mrs H, which I disagree with. However, in the circumstances I think it would've been more appropriate for them to have initiated the banking protocol. I don't agree with YBS's statement that they can only do it when there is evidence of fraud. The banking protocol is designed for bank staff to spot when someone is falling victim to a scam and prevent them from giving money to a fraudster and, where they believe the consumer might be the victim of a scam, to call the police.

Mrs H may've been pushy about wanting to make the payment, but I'm satisfied that this more likely than not because YBS didn't clearly explain why she might be the victim of a scam – this included; buying something on social media, paying for something she hadn't seen in person, paying for a car without any evidence that the seller owned the car, buying something for a price that is too good to be true. All of these circumstances are common with a car purchase scam. I think if YBS has explained this to Mrs H she wouldn't have continued with the payment and would've made further checks or decided to buy a different vehicle. This wasn't money that Mrs H could afford to lose.

Also, while Mrs H's daughter may've been pushing her to make the payment, the banking protocol can be helpful in these types of situations as usually a consumer would pay more attention to what they are told by the police or to any warnings given by the police.

So, I'm not satisfied that YBS took appropriate steps based on the concerns they had about the payment Mrs H was making. And, I don't think they asked appropriate questions or gave an appropriate warning or explanation as to the indicators that suggested Mrs H was the victim of a scam.

If they had done so, I'm satisfied that it's more likely than not Mrs H wouldn't have proceeded with the payment and her loss would've been prevented. On that basis, YBS should refund Mrs H.

But, I also need to consider whether Mrs H should share any responsibility for her loss with YBS.

Should Mrs H share responsibility for her loss with YBS?

In this case, I think Mrs H should've been concerned based on the price of the car. The seller said it was in immaculate condition, but the purchase price of £4,200 is around £3,000 below what the trade price should've been.

I appreciate that Mrs H may've seen other cars for sale at a similar cost, but they could've had damage or higher mileage or might not have been genuine adverts either. Also, I would have expected Mrs H to have asked for some proof of ownership from the seller. The advert referred to the V5, but I can't see that Mrs H asked to see this.

So, based on the concerning information Mrs H had, I think it's reasonable to have expected her to complete some basic checks including contacting the company she was paying, and getting proof of ownership from the seller.

Mrs H says she didn't know what checks to do, but she also referred to asking for a copy of the MOT and showing it to a friend who helped her buy cars previously to check it was genuine.

It's worth noting that when Mrs H went online the day after making the payment, she found reviews about C saying others had fallen victim to a scam. So, it's more likely than not a simple online search before making the payment would've found this information and prevented the loss.

As I think Mrs H could've taken steps to mitigate her loss, I'm satisfied she should share responsibility for her loss with YBS and have reduced the refund by 50%.

Calculating the redress

As YBS has recovered £65.79 which it's paid to Mrs H, it should refund Mrs H £2,129.61. This is the payment of £4,325, less the recovered funds of £65.79, leaving a net loss of £4,259.21 – which I've split in two.

Also, as Mrs H has been without the use of the funds, YBS should pay 8% simple interest on the refund, calculated from the date Mrs H made the payment until the date of settlement.

Putting things right

To put things right I require Yorkshire Building Society to:

- Refund Mrs H £2,129.61, and
- Pay simple interest of 8% per year on the refund, calculated from the date of the payment until the date of settlement*

*If YBS considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs H how much it's taken off. It should also give Mrs H a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

My final decision is that I uphold this complaint against Yorkshire Building Society.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 14 April 2025.

Lisa Lowe
Ombudsman