

## **The complaint**

Mr and Mrs B complain that TSB Bank plc has refused to refund £5,000 they lost after making a cheque payment which they now believe was part of an investment scam.

Mr and Mrs B have used a representative to bring their complaint, but for ease of reading, I'll mostly just refer to and will ascribe the representative's comments to Mr and Mrs B.

## **What happened**

In June 2018 Mr and Mrs B made a £5,000 payment by cheque from their TSB account to a company I'll refer to as 'R'. At the time they believed this was a legitimate investment opportunity. Some years later, unable to withdraw or recover any funds, Mr and Mrs B concluded the investment was likely a scam and contacted TSB to request a refund of their loss.

TSB didn't agree to providing a refund. In short, it said the payment was not unusual for the account, so it had not failed in that regard, and Companies House records show R in administration and no longer trading. It also explained that the disputed payment pre-dates its fraud guarantee so isn't covered and given it had been made in 2018 and not reported until 2024 any chance of recovery through the recipient bank was unlikely. Unhappy with this response Mr and Mrs B referred their complaint to this service.

Our Investigator didn't recommend that the complaint should be upheld. In summary she explained that Mr and Mrs B's payment was not covered by TSB's fraud guarantee or the Lending Standard's Contingent Reimbursement Model (the CRM Code) as it had been made prior to the introduction of these schemes. She was also not convinced from the evidence she'd seen that R intended to defraud Mr and Mrs B from the start. And as she couldn't be satisfied that Mr and Mrs B had fallen victim to a scam, she concluded that TSB's duty to intervene and protect them from financial harm, wasn't triggered. She also went further in explaining that even if she were to have concluded R were operating a scam and TSB had spoken to Mr and Mrs B before processing the payment, on balance, it's unlikely to have resulted in the discovery of an alleged scam, and a prevention of Mr and Mrs B's loss.

Mr and Mrs B asked for an Ombudsman to make a final decision. Their submissions focussed on the reasons for why they believe the investment with R was a scam.

As a service we aim to work informally where possible, so I emailed Mr and Mrs B in the first instance to correct some factual inaccuracies in the Investigator's assessment, and to explain that I won't be making a finding on whether their investment with R was a scam as this isn't something I need to do to fairly and reasonably decide their complaint. I explained, that even if I were to accept R were operating a scam it didn't follow that I could fairly and reasonably ask TSB to refund their loss.

Mr and Mrs B asked for a written 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.

Our Investigator first considered whether at the material time R were operating a scam as Mr and Mrs B allege. She concluded that she'd not seen evidence to persuade her that the fundamental purpose of the payment was meaningfully different to what Mr and Mrs B thought. So overall, she didn't think the available evidence supported that the disputed payment was made as a result of a scam. I appreciate Mr and Mrs B's recent submissions focus on why they believe their investment with R was a scam, and they feel strongly about this. However, I won't be making a finding on this point. I'd like to assure Mr and Mrs B that's not intended as a discourtesy; it's simply because I don't need to do so to reach what I think is a fair and reasonable determination.

The reason being, that firstly, in these circumstances, Mr and Mrs B aren't entitled to an automatic refund from TSB if it was accepted that they'd fallen victim to a scam. And secondly, even if I were to accept, on the balance of probabilities that Mr and Mrs B's investment with R was a scam (which to be clear I'm not saying is the case). I don't think, in these specific circumstances it can be said that TSB failed to do something that reasonably could've been expected of it at the time of processing the payment, that would have made a difference to the loss Mr and Mrs B has suffered.

Firstly, the disputed payment of £5,000 was made by cheque and debited the account in June 2018. The CRM code didn't come into effect till May 2019, nor does it cover cheque payments. But more crucially TSB are not signatories of the CRM code, and its own fraud guarantee didn't come into effect till April 2019 and wasn't retrospective. So even if R were found to be operating a scam Mr and Mrs B's payment isn't covered under these schemes.

Cheques are governed by long standing banking rules under the bills of Exchange Act 1882, which say TSB is obliged to honour a validly drawn cheque unless, at the time, it was clear that there was a permissible reason for it not to. Examples of this are forgery or insufficient funds. There was nothing about the physical cheque that ought to have given TSB cause for concern. It was correctly authenticated, and funds were available in Mr and Mrs B's account.

Turning to whether TSB ought to have intervened at the time. I think it's important for me to say that there is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. Arguably every payment processed could potentially be fraudulent, and it wouldn't be reasonable to expect a bank to stop and check every payment it processes. So, my key consideration here is: was the disputed payment unusual, uncharacteristic and / or suspicious enough to say that TSB reasonably ought to have had concerns, and that it should have intervened?

I've reviewed Mr and Mrs B's transaction history prior to the scam, and I'm satisfied that the disputed cheque payment of £5,000 would not have stood out as being unusual or suspicious. I say this because Mr and Mrs B have a history of utilising cheques for larger payments. A £10,000 cheque was issued in March 2016. A £10,368 cheque in October 2016. A £5,568 cheque in February 2017. A £12,000 cheque in January 2018. To add to the picture between January 2017 and April 2018 over £180,000 was received and transferred out of Mr and Mrs B's account. This includes individual payments up to the value of £25,000 being made. So, a validly drawn cheque payment for £5,000 would not have given TSB a cause for concern where I'd say it ought to have intervened prior to processing the payment and / or returned the cheque unpaid. So overall, I can't say that there has been a failing by TSB in the processing of the disputed cheque payment or in the monitoring of Mr and Mrs B's account that can be said to be the cause of their loss.

Mr and Mrs B didn't report the matter till several years later. TSB assessed the situation when notified but concluded that pursuing the funds was unlikely to succeed due to the length of time which had passed. I think this was a reasonable stance, as efforts to recover money from recipient banks is generally most effective when initiated promptly, and given R was in administration, it's unlikely that any recovery attempt via the recipient bank would've been successful when Mr and Mrs B raised it with TSB (this being around six years after the payment was made). So here, I don't think there has been a failing by TSB which has impacted the possible recovery of Mr and Mrs B's funds from the recipient bank.

I appreciate that Mr and Mrs B have lost out here and despite my natural sympathy for the situation in which they find themselves, for the reasons I've set out above, I'm not persuaded that it would be fair and reasonable to ask TSB to refund the disputed payment or do anything further.

### **My final decision**

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 17 October 2025.

Sonal Matharu  
**Ombudsman**