

The complaint

Mr B has complained that TSB Bank plc won't refund the money he lost in what he alleges was a scam.

What happened

Both sides are most familiar with the case, so I'll summarise what happened in brief.

Between late 2019 and early 2020, Mr B sent around £95,000 from his TSB account to an art investment firm across several cheques.

In 2024, Mr B complained to TSB. Information had since come to light which his representatives argue shows the firm was making misrepresentations. But TSB didn't think they were liable for Mr B's loss.

Our Investigator looked into things independently and didn't uphold the complaint. Mr B's representatives didn't agree, so the complaint's been passed to me to decide.

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.

I understand that Mr B lost a great deal of money here, and so he has my sympathy. I appreciate this can't have been an easy thing for him to deal with, and I appreciate why he would like his money to be returned. Of course, in this complaint against TSB I can only consider what TSB are responsible for, as opposed to the investment firm. And having carefully considered everything which both sides have said and provided, I can't fairly hold TSB liable for Mr B's loss. I'll explain why.

It's not in dispute that Mr B authorised the payments involved. So under the Payment Services Regulations he is liable for the loss in the first instance. And broadly speaking, TSB had an obligation to follow his instructions – the starting position in law is that banks are expected to process payments which a customer authorises them to make.

TSB should have been on the lookout for payments which could be the result of fraud or scams, to help prevent them. But even if I were to accept that this was a scam, I can't see that TSB could've reasonably concluded this at the time. And even if TSB *had* flagged the payments and given Mr B scam warnings or asked further questions about his reasons for paying, I think it's more likely than not that Mr B would've still gone ahead.

I say this because the information provided which alleges the firm was fraudulent comes from events, reviews, negative press, accounts, a liquidation, and liquidators' comments from the years *after* Mr B's payments. They would not have been available to TSB at the time. And while I've noted the representatives' point about the director's history, I would not have expected TSB to have researched Mr B's proposed investment firm's director's history.

I've not been able to find any negative reviews or warnings about the firm from the time of Mr B's payments or beforehand. On the other hand, at the time this was a real registered company, in a real location, which had been trading for years, investing in goods which Mr B was able to access. They'd provided Mr B with a professional brochure and an itemised purchase order, and Mr B had signed a contract with them. So as far as TSB would've reasonably been able to see at the time, the matter would've looked broadly legitimate. They would not have had sufficient reason to conclude that this was a scam or to block the payments outright. Further, I can see that TSB did speak to Mr B about the largest payment at the time – though due to the time that's passed the detail of the conversation is no longer available. But the notes do indicate that Mr B was happy to proceed. And Mr B explained himself that, at the time, everything seemed legitimate. So at the time, I don't think either party would've likely concluded that this was a scam.

Next, I've considered what TSB did to try to recover Mr B's money after he told TSB about the scam. But by the time Mr B complained, it was years later and the firm had gone into liquidation. So TSB could not reasonably recover the funds, and correctly directed Mr B to the liquidators. As the payments were made by cheque, they were not covered by the CRM Code, nor by any chargeback scheme. And as they were not made using credit, they were not covered by Section 75 of the Consumer Credit Act either.

So while I'm very sorry to hear about Mr B's lost funds, I don't think TSB can fairly be held responsible for things here. And so I can't fairly tell TSB to reimburse Mr B in this case.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 November 2024.

Adam Charles
Ombudsman