

The complaint

Mr and Mrs W, via a representative, have complained that TSB Bank plc ("TSB") have failed to refund the money they lost as part of an investment scam.

As Mrs W was primarily the one that dealt with the scammer, I will refer mainly to her throughout this decision.

What happened

The details of this complaint are well known to both parties, so I will not repeat everything again here. Instead, I will focus on giving the reasons for my decision.

In summary though, Mrs W says that she was looking to make an investment in order to get a better return on her savings. She came across a company that purported to be a crypto investment firm that I will call B.

Mrs W says that she then made over 50 transactions totalling around £798,000 to a crypto exchange and an account she held with a different provider that I will call D. These transactions took place between January 2021 and October 2022. These funds were then sent to B.

After some time, Mrs W realised she had been scammed. Mrs W asked TSB to refund these payments, as she believes TSB should have done more to prevent her from being scammed in the first place. TSB did not agree with this.

One of our investigators looked into this matter. He thought that, given the answers Mrs W gave during calls with TSB and during calls with a different current account provider - that I will call C - any intervention from TSB would not have stopped the scam. He therefore did not uphold this complaint.

Mrs W did not agree with this and therefore her complaint has been passed to me to issue a 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.

Having done so, I agree with the conclusions reached by the investigator for the following reasons.

It isn't in dispute that Mrs W authorised the disputed payments she made from her TSB account. The payments were requested by her using her legitimate security credentials provided by TSB. The starting position is that TSB ought to follow the instructions given by their customers, in order for legitimate payments to be made as instructed.

However, I've considered whether TSB should have done more to prevent Mrs W from falling victim to the scam, as there are some situations in which it should reasonably have had a closer look at the circumstances surrounding a particular transaction. For example, if it was particularly out of character.

TSB intervened twice during the scam, but I don't think that this was sufficient. I think that TSB should have intervened earlier than it did given the size of the payments that were being made. But I don't think that an earlier intervention would have stopped the scam

I say this because, I have listened to the intervention calls with TSB and with C. It is clear from the tone of her conversations that Mrs W was intent on making the payments and she completely believed what she was doing was legitimate.

It is also clear that Mrs W was intentionally providing answers that were misleading. I am not sure if this was at the prompting of the scammer, as I have been provided with very limited correspondence between her and the scammer - especially as the scam went on for over a year. The other alternative is that Mrs W was worried that if she gave the correct answers to the questions being asked, the payments would be blocked. Either way the answers that Mrs W gave essentially stopped TSB from giving an appropriate warning or uncovering the scam.

For example, when sending the funds to the crypto exchange, Mrs W told C that this was entirely her own choice, there was no third party involved and she was investing after doing her own research. She further implied that she was only putting money in the crypto exchange, rather than sending it on anywhere. And she gave C the impression that she had researched that particular crypto exchange and had concluded that it was safe.

Had TSB intervened and asked further, more probing questions, I think that the same answers would have likely been given by Mrs W. I say this because Mrs W was clearly intent on not providing the true circumstances surrounding the payments.

Eventually TSB did block payments being made to the crypto exchanges seemingly as part of a general policy change.

However, once Mrs W was unable to continue to send payments to the crypto exchange directly, Mrs W started sending funds to D instead, so that she could then forward the money on to a crypto exchange. When she was questioned by TSB and C why she was making these payments, she does not say that it was part of an investment. Instead she said that she likes to have funds in different places and that nobody had asked her to make the payments.

So, I think it's likely, had TSB intervened more than it did and asked more probing questions, Mrs W would have likely still given answers designed to allay the suspicions of TSB. Also, had TSB stopped the payments completely, I think that she likely would have sent payments via other means – given how under the spell of the scammers she was. This is demonstrated, by Mrs W sending funds to D then on to the crypto exchange after she ran into difficulties sending funds to the crypto exchanges directly.

Taking everything into consideration, I think that TSB should have asked more questions than it did. But I think it took reasonable steps in blocking the payments. And even if TSB had intervened further, I don't think it's likely the scam would have been stopped.

I've also thought about whether TSB could have done more to recover the funds after Mrs W reported the fraud.

TSB are under no obligation to refund the money to Mrs W under the Contingent Reimbursement Model (CRM) Code. This is because the Code does not apply to transfers which the payer has effectively made to themselves.

I appreciate this will likely come as a disappointment to Mr and Mrs W, and I'm sorry to hear they have been the victim of a cruel scam. However, I'm not persuaded that TSB can fairly or reasonably be held liable for their loss in these circumstances.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Mrs W to accept or reject my decision before 3 January 2025.

Charlie Newton
Ombudsman