

The complaint

Mr and Mrs M have complained Bank of Scotland plc didn't refund them when they were the victims of a scam.

What happened

Mr and Mrs M arranged for a decorating company (who I'll call S) to carry out works to their hallway in July 2023. They were to pay half of the costs as a deposit. On 8 June they paid £3,042. On 20 June they paid a further £1,485.50 for the paint S would be using.

Mr and Mrs M came back from being away and found no re-decorating had been completed. Mr M complained to his bank that he'd been the victim of a scam and wanted to be reimbursed.

Bank of Scotland (BoS) wouldn't reimburse him as they could see S was a bona fide company and Mr M was really complaining about services not being provided. They believed this was a civil dispute and advised him accordingly. Mr M was concerned during one phone conversation he'd been misled into believing BoS would be carrying out an investigation into the fraud and this would result in action being taken to freeze S's accounts (which were also with BoS).

BoS gave Mr M £50 for potentially misleading him. Mr and Mrs M brought their complaint to the ombudsman service. Mr M also took action to publicise what he saw as S's poor operating practices.

Our investigator confirmed she couldn't ask BoS to refund Mr and Mrs M as she believed this was a civil dispute in that S wasn't operating as a scam from the outset. She also told Mr and Mrs M that she couldn't consider their complaint about BoS's actions as S's bank as this would be about them as the receiving bank and not the sending bank.

Mr and Mrs M have asked an ombudsman to consider their complaint.

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.

Firstly, I'm in no doubt Mr and Mrs M didn't receive the service they paid for. I can easily imagine how distressing this was. Finding the right company to carry out building works or redecoration can often be stressful and difficult.

However, I can see that S – despite what Mr M strongly believes – was operating as a genuine business in June 2023 when Mr M engaged them to carry out works to their hallway.

I say this because the company was registered with Companies House, there were positive

reviews about S's work, they had an active website and as Mr M has confirmed they were recommended to him by another nationally-known company. S had a bank account with BoS where I can see normal account operations.

I've also got a pretty good idea that Mr M is quite thorough and had carried out his own research into S before engaging them.

This means that I consider this is a civil dispute and BoS have no obligation to refund scam payments as they would under the Contingent Reimbursement Model code.

Unfortunately, companies can have difficult operating periods and undergo financial difficulties. I think, overall, this is what this is.

Mr M has told us he believes BoS has not met their regulatory commitments by reporting S to authorities when he notified them of the fraud.

I should confirm that the ombudsman service is not a regulator. The issues Mr M has raised about their actions, or what he perceives as their inaction, relate to how they manage fraud and reporting fraud to authorities and their role under the Proceeds of Crime Act. I have no power to investigate these issues as Mr M is raising these as a point of principle. I don't believe in real terms any action BoS could have taken would have any impact on the detailed aspects of Mr M's complaint as this remains a civil dispute. The correct regulator for those issues is the Financial Conduct Authority.

I note that Mr M is appearing on behalf of the prosecution in an upcoming court case against one of S's directors. I should confirm this fact alone does not confirm that S was set up to scam customers, as would be required if I was to ask BoS to refund Mr and Mrs M.

I know from the evidence Mr M has shared with us that he has understandably strong feelings about S. He is convinced they were operating to scam customers. I don't agree.

My final decision

For the reasons given, my final decision is not to uphold Mr and Mrs M's complaint against Bank of Scotland plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 27 December 2024.

Sandra Quinn
Ombudsman