

The complaint

Mr and Mrs D are unhappy that TSB Bank plc won't refund payments they sent as part of a scam through their joint account.

Mr and Mrs D bring their complaint via professional representatives, but for simplicity (and because he put through the transactions) I've referred to the actions of Mr D throughout this decision.

What happened

In early 2022 Mr D received a call from someone purporting to work for the solicitors handling the hostile takeover of a large power company. He was handling his sister's financial affairs at the time, and knew she had shares in that power company. The agent explained there was an opportunity to buy and sell those shares, in light of the takeover, for a good profit. But things needed to be kept secret, as the deal (worth billions of pounds) could fall through otherwise. Mr D was sent some paperwork about the purchase of the securities his sister held, which required a 'bond' to be paid up front (for around £5,700). So he paid that from his TSB account (payment 1 in the table below).

Mr D was then contacted by another 'investment firm', I'll call "S", which said it was taking over from the original solicitors. The agent offered Mr D the opportunity to acquire more of the same shares at a heavily discounted price, which he would be able to sell at a large profit once the takeover completed. After researching S online Mr D was persuaded it was legitimate and decided to take up the offer. So, in June 2022, he paid around £55,000 to buy extra shares – through two international transfers from his TSB account (payments 2 and 3).

Later in June 2022, S contacted him to say tax would need to be paid on the profits at 30% - but he could get a 'margin loan agreement' from the company doing the takeover for most of it. Mr D says the documents looked real and so he sent that amount to cover the tax – with part of it paid from his TSB account (payment 4).

Mr D was told there had been issues with the payments from his banks, and they were sometimes taking too long. He was advised to open accounts with two money transfer firms, I'll call "H" and "W", as other investors were apparently doing the same. Shortly after, in August 2022, Mr D was informed that the previous tax payment had been made late and there was now a penalty of over £34,000 to pay. He was told that the profits wouldn't be released until that charge had been covered, and it could delay things significantly if he didn't. Mr D was also promised he'd get the tax amount back very soon, as part of the proceeds payment.

In order to cover that charge, Mr D tried to send money through his account at W – but TSB, as the bank funding the transaction, blocked the transfer. According to the notes, it's fraud team spoke to him and warned that it looked to be a scam, particularly as two beneficiary banks had refused to accept the payments he'd attempted. The record of the call also suggest he was educated on the key features of investment scams, and told that if he sent further payments to this investment they likely wouldn't be covered under TSB's Fraud Refund Guarantee (FRG). Mr D then moved the money in chunks to his account at a bank I'll

call “B”. Then he used that account instead to fund the payments (initiated through W), to cover the cost of the tax penalty.

Later in August 2022, Mr D received call advising him that there were bank related charges to pay, and he was sent legal looking documents purporting to be from the United States Federal Depository and Treasury. Payments covering those charges, for more than £31,000, were made from his account at W (having originated at B). In September 2022, S said its service fees amounted to almost £24,000 – and they needed to be settled prior to the money being released. S also told Mr D that if he paid those costs later he would need to use a different company, and they would charge him more.

Mr D sent payments to cover the service fees from his accounts at B and H. Then in October 2022 Mr D received a letter supposedly from the Federal Reserve System, saying that \$20,000 needed to be paid as security before the proceeds of the shares sale could be released (which would be refunded). There was also a ‘tax abatement’ cost of over £12,000 to pay, according to S. Both of those charges were paid by Mr D with transfers from H (funded by B). There was also a Bank of England tax fee to pay for around £6,200 – with the promise that the money would be released quickly once settled. So he paid that amount from his TSB account (payment 5).

Mr D made the following payments from his TSB account as part of the scam (to accounts in different company names at banks in the Philippines):

Payment	Date	Type	Amount
1	17 May 2022	International transfer	£5,733.06 + £17.50 fee
2	8 June 2022	International transfer	£27,000 + £17.50 fee
3	10 June 2022	International transfer	£28,806 + 17.50 fee
4	22 June 2022	International transfer	£25,000 + £17.50 fee
5	24 November 2022	International transfer	£6,200 + £17.50 fee

In January 2023 Mr D received documents from the ‘Office of the Comptroller of the Currency’ which said a payment of almost \$15,000 was needed before the proceeds could be distributed. Mr D attempted to make a payment from his TSB account through W, but after speaking to him the bank declined it. The notes say TSB warned him it was a scam, and said any payments made to the investment wouldn’t be covered by the FRG. Mr D was reportedly insistent he knew what he was doing, and would arrange the payment in other ways.

It seems B also declined his attempts, at both sending money through Wise and another money remittance service. B spoke with Mr D on 7 January 2023 and carried out a near perfect fraud intervention call – explaining exactly why this was a scam, and particularly relying on the multiple fees and charges that he was repeatedly being asked for. Mr D did not accept that it was scam during the call, and insisted it was legitimate, but agreed to look into it. At the end of the call, before Mr D hung up, he could be heard discussing the matter with his family – who also said it probably was a scam, and that they should have had the money paid to them already.

Mr D says around this time he received a call from someone purporting to be a solicitor, who

told him the original investment company he'd been dealing were scammers – and he was representing several people in trying to recover their stolen funds. He was also contacted by an 'asset recovery' company. Increasingly suspicious, Mr D spoke to his bank again, who advised getting his documents authenticated by an independent financial advisor. But he says he couldn't find anyone willing to make that judgement call. Eventually Mr D's solicitor discovered the person he'd been communicating with at S was impersonating someone else. So his solicitor advised it was likely a scam.

The matter was subsequently reported to the police and all the firms involved. Mr D attended a TSB branch, and completed the process over the phone with the fraud team. TSB attempted recovery of the payments but was unsuccessful. It refunded the first four payments in full, under its FRG, which totalled £84,609.06. But, during a call, an agent explained the last payment wasn't eligible for a refund under the guarantee, because Mr D ignored their advice not to make any more payments to the investment in August 2022.

A complaint was raised in July 2024, through representatives, that said the remaining amount lost from the account (around £6,200) should also be refunded under the FRG. But TSB's final response maintained that it had acted fairly by not covering the final payment. It pointed to the contact Mr D had with the bank in August 2022 and January 2023, and said its notes indicated clear warnings were given. Mr D wasn't happy with the response, and so he referred his complaint to our service for review.

One of our investigators looked at the complaint and didn't recommend it should be upheld. In her view, TSB had fairly resolved things by refunding the first four payments under its FRG. The investigator thought it was fair to decline paying out for the final transfer, as TSB had refused to send any more money to the investment by that point, and had previously warned Mr D that any future payments to it likely wouldn't be covered under the guarantee.

Mr D didn't accept the investigator's opinion, and argued that TSB's notes were not enough to say that the intervention in August 2022 was sufficient and that he'd ignored an effective warning. Mr D added that he didn't think it was fair to give TSB the benefit of the doubt when it hadn't retained records of the conversations. Lastly, he said the scam was uncovered when his family recognised the situation as fraudulent – which showed that he was willing to act on red flags being highlighted to him. So TSB ought to have been able to uncover what was happening during a discussion, with appropriate probing and warnings.

The investigator considered the points raised in response to the view, but her opinion remained the same. As no agreement could be reached, Mr and Mrs D asked for an ombudsman to review things. So the complaint was passed to me for a final 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'm not upholding Mr and Mrs D's complaint. I appreciate that will come as great disappointment to them, as I know they feel strongly that TSB should have done more. I was also saddened to hear about how much the incident had affected Mr D in particular, but also the whole family. There's no dispute that Mr D fell victim to a cruel and sophisticated scam. But what I must decide is whether TSB ought to have done more – and if so, would that have made a difference here. I've thought about this very carefully, given what's at stake. On balance, though, I don't think any further interventions would have prevented the loss. I've explained my rationale below.

In broad terms, the starting position in law is that a payment services provider is expected to

process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the account and the Payment Services Regulations (PSR's). Mr D 'authorised' the transactions in question (he made them), albeit under the belief they were for a legitimate opportunity to purchase shares. So TSB were under an obligation to process the payments – but that isn't the end of the story, as far as TSB's responsibility in the matter goes.

While that's the starting position, I've also taken into account the regulator's rules and guidance; relevant codes of practice, along with what I consider to have been good industry practice at the time. I've also applied TSB's terms for the account, which say it may delay or refuse payments to meet regulatory requirements (as well as detailing its Fraud Refund Guarantee). Those together mean I consider TSB should fairly and reasonably have been on the lookout for the possibility of Authorised Push Payment (APP) fraud at the time, and intervened if there were clear indications its customer might be at risk.

TSB has a difficult balance to strike in how it configures its systems. It needs to detect unusual activity, or activity that might otherwise indicate a higher than usual risk of fraud, whilst not unduly hindering legitimate transactions. There are many millions of payments made each day, and it would not be possible or reasonable to expect firms to check each one. In situations where firms do (or ought to) carry out checks, I would expect that intervention to be proportionate to the circumstances of the payment.

TSB didn't intervene on any of the disputed transactions in the table above, but refuse two other payments – one in August 2022, and one in January 2023. Mr and Mrs D did make large payments, often in the thousands of pounds, from this account (usually to other accounts they have). So I don't think the first payment would have stuck out enough to require fraud checks. But I think the second payment for £27,000 warranted an intervention from TSB. It was very large, even by comparison with the previous spend on the account, and was going internationally – which was unusual for the account (and an expensive way to send those funds, given the availability of transfer services). It was also an escalation on the previous amount sent to this payee, though I appreciate the time gap since that payment might have been somewhat reassuring to the bank. I think those risk factors meant TSB ought to have spoken to Mr or Mrs D prior to allowing the payment.

There were some relatively concerning elements to the investment, even by this early point in the scam – the amount Mr and Mrs D stood to make on the sale of the extra shares would have been a red flag, as it was high. The company offering the opportunity had cold-called Mr D too. However, I don't think the information that came to light during any conversation would have likely concerned TSB enough to not allow the payment. S was a clone of a real brokerage company, with a footprint online, and regulated in America to arrange these kinds of deals. That would have made it harder to spot it was a scam – as even if TSB had searched for the company he was dealing with, it would likely have only seen the legitimate version, and there weren't any warnings up about a potential clone.

Share 'rights issues' are common too, which is when a company offers additional shares to its shareholders, for less than the current price in order to raise money. So I don't think the scenario of Mr D being offered additional discounted shares would have seemed particularly unusual or concerning – especially given his sister seemingly did have the shares S claimed they did. He also wasn't immediately forthcoming about the expected returns during the intervention call with B, and it had to be probed out of him. So I don't think Mr D would have likely volunteered that aspect, and I don't think the risks evident at this stage would have meant TSB couldn't accept what it was told on face value. There was also speculation in the news around this time of a deal involving this energy company, which would have added to sense this could be genuine (for both Mr D and the bank).

Mr D was under strict instructions not to discuss the deal, and believed it was top secret, so I don't think he'd have shared everything with TSB. He was later honest about the situation when he spoke with the banks involved, but that's after the deal had supposedly gone through. I'm not suggesting he'd have lied if asked about the payment, but I don't think he'd have necessarily been forthcoming about all the details at the point of these payments. So I don't think the concerning parts would have either come to light or outweighed the reassuring elements. Mr D hadn't also been asked to pay release fees or charges by that point, which was the main factor that later uncovered it was a scam for TSB (and B).

Even if Mr D had been given an investment scam warning, or was advised by TSB to carry out his own due diligence and take independent advice, I'm not satisfied that would have stopped the payments being made. Mr D was convinced the opportunity and paperwork were genuine – and it took far more than just speaking to his family for the scam to be uncovered. He got told it was likely a scam and given an investment scam warning during the later call with TSB in August 2022 – but that didn't work, and he made the payment anyway (through a different bank). While we don't know exactly what was said during that call, I think the notes about the conversation are good enough for me to conclude a relevant warning was given, and so one prior to the second payment wouldn't have likely resonated either. Mr D was seemingly determined to make the payments, despite advice to the contrary – which I appreciate is testament to how convincing the scammers were.

If TSB had intervened on the third payment I think the conversation would have been similar, and the scam wouldn't have likely been uncovered for the same reasons (he was still buying the shares, and had been asked for any release fees yet). I wouldn't have expected TSB to stop the last two payments, given the outcome of its earlier checks – and by then these amounts going internationally wouldn't be as unusual for the account. The significant gaps between them also would usually have allowed enough time for most issues to come to light – as it's less usual for scams to go on for as long as this.

Overall, I don't think TSB made mistakes by processing these transfers. Though I think it could have done more to check Mr and Mrs D weren't at risk, I don't think those conversations would have uncovered the scam. Mr D's representatives have referred to him as elderly and vulnerable at the time – but he was in his early seventies when he made these transfers, and sounded confident and articulate during the calls I've listened to. So I don't think I'd have expected TSB to pick up on any signs of vulnerability if it had intervened.

TSB's FRG covered the majority of the loss in this case, but the bank declined to refund the last payment. The term being relied on is the exclusion relating to abusing the guarantee. In this context that means TSB thinks Mr D deliberately ignored account safety information, to the extent it wouldn't now be fair for the guarantee to cover a loss that TSB had done what it could to protect him against. It's disappointing that the recordings of the intervention calls aren't available – and they really should be (I've factored that into my considerations). So I've had to piece together what I think likely happened during the discussions, based on the notes (which, helpfully, are more detailed than we often see), and Mr D's other interactions with the different firms involved.

Considering what we know, I think TSB likely told him it was probably a scam, and I think the agent would have pointed to the two beneficiary banks not accepting his earlier payments attempts as the biggest red flag (which it was). I also think the agent discussed Mr D being advised to not use his bank for the payment (and use W), along with the different payee account details being given – and why those factors were a cause for concern. I think he was also read out an investment scam warning, and based on my experience of what that would have likely contained (as I've heard before the scripts they had around this time) some of that should have resonated with his circumstances (things like the returns being too good to be true and unsolicited contact). It's unfortunate that other red flags, like being asked to

pay a very large charge for the supposedly late payment of the tax owed, didn't come to light during the conversation – as it would be in the notes if it did. Whether Mr D would have been forthcoming about all the circumstances is unclear, as he was under instruction this was a top secret deal and might still have been worried it could fall through. But TSB could probably have probed further during the call, and asked Mr D exactly what the payments were for.

Overall, though, I think TSB did likely give Mr D enough information to allow him to protect himself from future losses, and he didn't heed the warning. So think the bar has been met for the exemption in the guarantee to fairly apply. TSB told him this was a scam, highlighted a number of concerning factors, gave a warning, and said the guarantee wouldn't cover future payments to the investment – I think that was stark enough advice. In January 2023 Mr D was again advised it was a scam by the two banks involved, and he didn't seem to accept what he was being told in the moment then either – though B's intervention did set him on a path to discovery. So I don't agree that Mr D not realising he'd been scammed in August 2022 points to the intervention being insufficient.

Mr D's actions after the call show that he circumvented the advice he was given by TSB, as he sent the money to another bank and made the payments from there quite instead. I haven't seen any evidence that Mr D first investigated the concerns TSB raised in August 2022 before continuing, and it had highlighted red flags that ought to have worried him. So I think TSB can fairly rely on the exemption in its FRG to not cover the last payment, as Mr D appears to have consciously ignored the account safety information given.

Having considered everything, and whilst I recognise that Mr and Mrs D have sadly had this money stolen, I don't think TSB could reasonably have been expected to prevent the loss. So, I'm not directing it to refund the payments sent.

My final decision

Mr final decision is I don't uphold Mr and Mrs D's complaint about TSB Bank plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs D to accept or reject my decision before 28 July 2025.

Ryan Miles
Ombudsman