

## **The complaint**

Mr and Mrs M complain that The Royal Bank of Scotland Plc ('RBS') won't refund money they lost to an investment scam.

Mr and Mrs M have a professional representative but for ease of reading I will only refer to Mr and Mrs M.

## **What happened**

The background to this complaint is well known to both parties, so I'll only refer to some key events here. But I'll summarise the key points and then focus on explaining the reasons for my decision.

Mr and Mrs M complained to RBS, saying that they had fallen victim to an investment scam. They said:

- Between November 2021 and October 2022, they decided to invest over £67,000 from their RBS account with a company, which I will refer to as 'H', via an account with a legitimate cryptocurrency exchange. H is now widely accepted to have been a scam.
- RBS is required to reimburse for losses incurred through an Authorised Push Payment (APP) scam, unless their customer is found to have been grossly negligent or ignored effective warnings issued by their bank.
- Any warnings RBS may have provided during the time of the payments in question were not effective, as they were neither sufficiently clear nor impactful.
- They were inexperienced investors, and not aware of the risks associated with cryptocurrency.
- Mrs M had a family bereavement two months prior to the investment and was going through some serious health issues at the time. Mr M was also going through life changing financial hardship at the time. So, they both should have been considered extremely vulnerable.
- To put things right they want RBS to reimburse the funds they lost in full.

RBS investigated the matter but declined to reimburse Mr and Mrs M as they said no bank error had occurred. It also said it had no concerns about the validity of the payments at the time.

Unhappy with this response, Mr and Mrs M referred their complaint to our service. Our Investigator considered the complaint, but he didn't think RBS had to do anything. He said he didn't think the payments made by Mr and Mrs M carried a heightened risk of financial harm from fraud, based on their previous account activity and taking into consideration the payments were made sporadically over an almost 12-month period.

Mr and Mrs M disagreed with our Investigator's opinion and maintained the payments were out of character and of a high value, so RBS should have intervened. They also mentioned

RBS should have been on high alert about cryptocurrency payments due to the heightened risk of financial harm associated with it, and RBS should have called them to discuss the nature of the payments before approving them.

The Investigator considered the additional points raised, but his opinion remained the same. As a result, the matter has 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'm sorry Mr and Mrs M have lost a significant sum of money and I want to reassure them that I don't underestimate the impact this has had on them. But, while I know this isn't the outcome they will be hoping for, I don't think RBS has acted unfairly by not refunding their loss for similar reasons to our Investigator. I'll explain why.

Firstly, I've considered the Contingent Reimbursement Model (CRM) code, but it doesn't apply here. This is because the CRM code doesn't apply to transfers which the payer has made to themselves. In this instance the payments from the RBS account were sent to a cryptocurrency account held in their own name and therefore the CRM code does not apply.

In broad terms, the starting position in law is that a bank is expected to process payments and withdrawals that their customer authorises them to make. It isn't disputed that Mr and Mrs M knowingly made the payments from their RBS account and so, I'm satisfied they authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of their account, RBS are expected to process the payments and Mr and Mrs M are presumed liable for the loss in the first instance.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for RBS to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

So, the starting point here is whether the instructions given by Mr and Mrs M to RBS were unusual in relation to their typical account activity. Having reviewed Mr and Mrs M's account statements, I can't agree it was.

The scam payments were also made across a 11-month period, and didn't follow a typical fraud pattern. There were also large periods when no payments were being made. For example, a £5,000 payment was made in November 2021, and the next payment was made several months later.

Mr and Mrs M made numerous similar value transactions prior to, and during, the period the scam occurred. And although they have argued these payments were not investments, I'm satisfied based on the account activity, the payments made towards the scam would not have appeared unusual to RBS in comparison to normal account activity.

The payments also didn't clear the account balance, which can be another indicator of fraud, and the account maintained a healthy balance and remained in credit even after the scam payments were being made. I therefore don't think RBS would've had reason to consider the payments were suspicious or out of character, thereby prompting them to intervene before processing them. So, I can't say that they were responsible for the loss Mr and Mrs M suffered.

I've also considered that the investment opportunity with H was introduced to Mr and Mrs M from Mrs M's doctor, who would be considered as a trusted source. There were also sophisticated aspects to this scam – not least the credible and professional looking platform, detailed literature and documentation which provided intricate details and guidance on how the investment process worked. Mr and Mrs M were also in regular communication with H which included being able to attend weekly meetings to ask any questions and raise any concerns they had. H also came across highly professional and knowledgeable – thereby reassuring Mr and Mrs M about the legitimacy of the investment opportunity.

Mr and Mrs M have said they were vulnerable at the time of the transactions, however, as mentioned above, the payments were made over a 11-month period and were in line with their usual account activity, so I don't think the bank could reasonably have been expected to identify that they were vulnerable without them making it aware of their circumstances. In any event, as detailed above, I don't think intervention by the bank would have had a positive impact.

### Recovery

I've thought about whether RBS could've done anything to recover Mr and Mrs M's loss when the scam was reported. But RBS could've only sought to recover them from the cryptocurrency exchange. And given the fact they had already used the funds as part of the scam, no funds would've remained. I therefore don't think RBS could've done anything else to recover Mr and Mrs M's loss.

I have a great deal of sympathy for Mr and Mrs M and the loss they have suffered. But it would only be fair for me to direct RBS to refund their loss if I thought they were responsible – and I'm not persuaded this was the case.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 22 July 2025.

Israr Ahmed  
**Ombudsman**