

The complaint

Mrs N complains that Kroo Bank Ltd (Kroo) is refusing to refund her the amount she lost as the result of a scam.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mrs N received a cold call from an individual I will call X claiming to be a financial advisor. X told Mrs N that X could help her build a strong investment portfolio that would eventually provide her with an income.

Mrs N didn't have funds available to invest but X continued to contact Mrs N and eventually persuaded her to take a loan to fund the investment, promising the loan would be repaid within five days.

X guided Mrs N to open an account with Kroo and to apply for a loan from another provider via calls and video calls. Once the loan was received into the Kroo account it was moved to another external account in Mrs N's name where it was converted into cryptocurrency before being forwarded again in relation to the scam.

Mrs N tells us she was able to view her investment via a link provided to her by X that gave her access to an investment platform.

From the evidence provided by Mrs N it appears the investment was doing well, but she then received a fake email from her loan provider stating the loan had been repaid and realised she had fallen victim to a scam.

Mrs N previously told us that the payments made from her Kroo account were not authorised by her but has since explained that she said this as she was being guided by X on how to make the payments and thought that this would class the payments as unauthorised.

Mrs N made the following payments (with guidance from X) in relation to the scam from her Kroo account:

<u>Payment</u>	<u>Date</u>	<u>Time</u>	<u>Payee</u>	<u>Payment Method</u>	<u>Amount</u>
1	10 September 2024	1.33pm	Mrs N	Transfer	£5,000
2	10 September 2024	2.42pm	Mrs N	Transfer	£5,000
3	10 September 2024	3.37pm	Mrs N	Transfer	£5,000

Our investigator considered Mrs N's complaint and didn't think it should be upheld. Mrs N disagreed, so this complaint 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.

It isn't in dispute here that Mrs N has been the victim of a scam and has lost money as a result. However, even when it is clear that a scam has taken place, and an individual has been tricked out of their money, it doesn't necessarily follow that a business will need to refund the money that has been lost.

Recovering the payments Mrs N made

Mrs N made payments into the scam via the method of transfer. When payments are made via the method of transfer Kroo has limited options to seek recovery. I can see that when Mrs N reported the scam to Kroo it did contact the operator of the receiving account about the payments but did not receive a response.

I don't think it would have made a difference even if a response was received from the operator of the receiving account. I say this because Kroo could only have asked that account provider to refund any amounts that remained within the account the payments had been made to.

Mrs N has already confirmed that the payments were sent from her Kroo account to another account held in her own name before being moved on as part of the scam. Mrs N has also provided evidence that shows that other account had a nil balance and the funds had been moved on.

With the above in mind it's clear no funds remained in Mrs N's other account at the time to be recovered, and even if they did, as that account was in Mrs N's own name, she would remain in control of them.

With the above in mind Kroo did everything I would have expected it to recover the payments Mrs N made and had no other reasonable options available to it to seek recovery.

Should Kroo have reasonably prevented the payments Mrs N made?

I think it's clear that Mrs N authorised the payments that were made from her account with Kroo, albeit on X's instruction. So, the starting point here is that Mrs N is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Kroo should have been aware of the scam and intervened when the payments were made. And if it had intervened, would it have been able to prevent the scam taking place.

The payments Mrs N made in relation to the scam were for relatively high values and were made on the same day, so even though they were being made to another account in Mrs N's name I think it can be argued that Kroo should have had concerns about the payments and intervened.

Our Investigator has said that Kroo should have had concerns when Mrs N made payment 3, Mrs N says Kroo should have had concerns earlier. But either way I don't think that an intervention at any stage would have made a difference, I will explain why.

When Mrs N applied for the loan to fund the investment, she took guidance from X on how to complete the online application. The funds were always intended to be used for the purpose

of investing with X.

When completing the online form Mrs N gave the loan purpose as “home improvements”. I think this clearly shows that Mrs N was willing to follow X’s guidance, giving incorrect information to the loan provider to obtain the loan. Most providers don’t offer loan facilities for the purpose of investing, so had Mrs N been honest when taking out the loan her application would likely have been declined.

Mrs N also took guidance from X on how to open her Kroo account and the additional account she opened to process her payments to the scammer.

When Mrs N received the funds from the loan Kroo asked her a set of questions. While there is limited chat evidence with X I can see clearly that Mrs N sent a screenshot of the questions Kroo asked her to X and asked, “what should I answer”. The questions Kroo was asking were very clear and I don’t think they required any third-party input to answer them, but Mrs N still felt the need to ask X this question.

I think it’s clear that Mrs N was reliant on X’s guidance with every stage of the investment, from opening various accounts, to applying for a loan and answering questions posed by Kroo.

I think it’s most likely that had Kroo intervened when Mrs N made any of the disputed payments Mrs N would likely have sought guidance from X (as she had previously) and provided the answers X would have guided her to give, whether they were accurate or not to the situation. This would likely have made it very difficult for Kroo to uncover the scam and it would not have been able to prevent Mrs N’s loss.

With the above in mind, I don’t think Kroo missed an opportunity to prevent Mrs N’s loss, so it is not required to refund her.

My final decision

I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs N to accept or reject my decision before 11 April 2025.

Terry Woodham
Ombudsman