

The complaint

Mr B complains that Bank of Scotland (BOS) won't refund the money he lost as a result of a scam.

The complaint is brought on Mr B's behalf by a professional representative.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr B was introduced by a friend to a cryptocurrency investment firm that I will call C. Mr B's friend said he had made a 50% return on his investment. He had also been making weekly withdrawals which convinced Mr B this was a good opportunity. Mr B explained he did extensive research on the company online and found good reviews. He was also added to a messaging group with other investors of C. Mr B had messaged people within this group who advised they had successfully pulled out their original investment. Mr B was sent details about C and had reviewed its website which explained it was fully regulated and registered with the relevant licenses required for investing. He opened an account with C and was also advised to open a cryptocurrency account with a firm I will refer to as P.

After his initial investment Mr B received a return of £1,541.45 back from C, which he says was designed as a ponzi scheme. After a few more payments he tried to make some withdrawals and it was at this point he realised he had been scammed. Mr B reported he had been scammed to BOS. I have included a breakdown of the relevant payments below.

Date	Type of transaction	Amount
5 November 2023	Faster payment to Mr B's cryptocurrency account at P	£4,500
16 November 2023	Credit from Mr B's cryptocurrency account at P	£1,541.45
17 November 2023	Faster payment to Mr B's cryptocurrency account at P	£217
17 November 2023	Faster payment to Mr B's cryptocurrency account at P	£2
17 November 2023	Faster payment to Mr B's cryptocurrency account at P	£3
20 November 2023	Faster payment to Mr B's cryptocurrency account at P	£530
24 November 2023	Credit from Mr B's cryptocurrency account at P	£17.05

Mr B raised a complaint with BOS in January 2024. BOS investigated the complaint but didn't uphold it. It didn't think it had done anything wrong by allowing the payments to go through. So, Mr B brought his complaint to our service.

Our investigator looked into the complaint but didn't uphold it. Our investigator didn't think the payments Mr B made were unusual and so they didn't feel BOS should have identified a scam risk. Mr B's professional representative didn't agree. It said, in summary, that the payments were high risk and should have been identified by BOS.

Mr B's complaint has now been passed to me for review and a decision.

I issued my provisional decision on 26 February 2025. I decided, provisionally, that I wasn't going to uphold Mr B's complaint. This is what I said.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In line with the Payment Services Regulations 2017, consumers are generally liable for payments they authorise. BOS is expected to process authorised payment instructions without undue delay. But BOS also has obligations to help protect customers from financial harm from fraud and scams. Those obligations are however predicated on there having been a risk of loss to a fraud or scam present.

I think it's important to note here that although Mr B has provided some testimony about how he became involved in the scam, we've not been provided with any other evidence to show that he was caught up in this scam, such as evidence of his communications with his friend or the group chat relating to the scam. His representative has provided us with some generic information about the scam, but it doesn't link Mr B to the scam or demonstrate that he was a victim of it. And although he's shown us cryptocurrency statements showing the withdrawals, they don't show that the withdrawals were related to the scam or that the funds were subsequently sent to the scammer.

BOS has also raised some concerns on whether this was a scam and whether C was a genuine company. It wasn't entirely sure, but in the overall circumstances of this complaint I don't think it makes a difference to the outcome of Mr B's complaint. This is because I don't think BOS could reasonably have prevented Mr B from making the payments. I'll explain why.

The starting point here is whether the payment instructions given by Mr B to BOS were unusual enough to have expected additional checks to be carried out before the payments were processed. As explained above, our investigator didn't think BOS needed to intervene in any of the payments Mr B made, because she didn't think they looked suspicious. This was partly due to the fact that Mr B had made some larger payments before November 2023, so his first payment to P may not have seemed unusual.

However, having looked at all the circumstances I think BOS should have intervened before Mr B made the first payment on 5 November 2023. This payment was for a significant amount and was identifiably going to a cryptocurrency account. And by November 2023, banks were aware that fraudsters had increasingly turned to cryptocurrency as their preferred way of receiving money across a range of different scams, including investment scams. So, BOS should have known that this payment carried a heightened risk, and should have been concerned that there was an increased risk that Mr B was falling victim to a scam. Therefore, I would have expected BOS to take reasonable steps to warn Mr B.

BOS hasn't given us any information to suggest a warning was provided at the time, so I have thought carefully about what a proportionate warning in light of the risk presented would have been in these circumstances. By November 2023, BOS ought to have attempted to narrow down the potential risks Mr B may have faced by asking a series of automated questions designed to narrow down the type of cryptocurrency related scam risk associated with the payments he was making – and it should have provided a scam warning tailored to the likely cryptocurrency related scam Mr B was at risk from. This should have highlighted some of the common characteristics found in these types of scams.

However, I don't believe a warning would have impacted Mr B's decision to make the payments. Mr B's representative explained that he wasn't experienced in investments and had been persuaded to participate by his friend. Before he invested, his friend had shown

him screenshots of the returns he had been making and vouched for the investment personally. His friend had also confirmed he had been able to make withdrawals on a weekly basis. This suggests Mr B was convinced to invest by his friend and by the profits his friend had made. Other investors in the group chat he had been added to also confirmed they had been able to withdraw their investment. Mr B also mentioned doing extensive research into C. All this information would have led Mr B to believe this was a genuine investment. So, I think it's more likely than not that Mr B would have disregarded any warning as he wouldn't have thought it was relevant to his own circumstances. And in those circumstances, even if there was evidence Mr B had been scammed, I wouldn't hold BOS responsible for his losses.

Could BOS have done anything to recover Mr B's money?

There are industry standards around attempting recovery of funds where a scam is reported. However, the scam payment was sent from BOS to a cryptocurrency account in Mr B's name, from where he then would have moved the funds onto the scammers. So, I don't think there was any realistic prospect of BOS recovering the funds.

I realise this means Mr B is out of pocket, and I'm really sorry he's lost money. However, for the reasons I've explained, I don't think I can reasonably tell BOS to reimburse him.

I asked Mr B and BOS to reply with anything else they wished to add before I issued my final decision.

BOS didn't respond with any further comments.

Mr B's professional representative replied to say they disagreed. I have summarised the points they made below.

- Mr B fell victim to an extremely professional scam. Mr B provided several screenshots which he says demonstrates payments being made from his cryptocurrency wallet to C.
- Mr B provided screenshots of messages where he discusses the investment with his friend which he says highlighted he had sufficient doubt in the investment.
- Mr B advised that if BOS had called him, he wouldn't have gone ahead with the investment.
- Mr B's professional representative also advised that Mr B took more care in protecting his financial position than BOS did despite it being aware of the type of scam he had fallen victim to.

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 departing from the outcome I reached in my provisional decision.

Mr B has been able to provide further evidence of the scam including screenshots of messages he's had with his friend. But as explained in my provisional decision, even if I was satisfied this was a scam, I would still need to be persuaded that an intervention from BOS would have impacted Mr B's decision to invest – and based on what I have seen, I don't think it would have.

I have reviewed the messages Mr B had with his friend prior to investing. The messages suggest he had some reservations early on. But I can see that Mr B was discussing the

investment with his friend several days before he made the decision to invest, and by the time he made his first payment the information I have seen confirms he was happy with the investment. Mr B asked his friend several questions to understand how the investment worked. This included whether people could withdraw money from the investment. His friend replied to confirm he could. He friend also replied to say at least one other person, who Mr B also seemed to know, had success with the investment. So, I think this information would have led Mr B to believe the investment was genuine and persuaded him into investing.

The messages also confirm he had set up his cryptocurrency account with P and that he wanted help from his friend to begin investing. So, it's clear from the messages that Mr B was keen to invest before he sent any payments to BOS. Mr B also highlights to his friend that he had been speaking to another individual who was also making profit from the investment. And as explained in my provisional decision, Mr B's friend had successfully been able to withdraw money from the investment and vouched for it personally. So, with all this in mind, I believe it would have persuaded him that this was a genuine investment. So, any warning provided by BOS was more likely than not to have been disregarded by Mr B as it wouldn't have felt relevant to his circumstances.

Also, I'm not satisfied that I can fairly say that BOS should have called Mr B or that it needed to more to do more to protect him in the circumstances. I wouldn't expect BOS to call a customer on every payment it identified as carrying a heightened risk of fraud given the number of payments it processes on a daily basis. I'd expect any intervention to be proportionate to the circumstances of the payment. Here, I think a tailored written warning framed around the risks posed by investment scams involving cryptocurrency would have been appropriate considering the size of the payment and what was known to BOS at the time.

I'm sorry to disappoint Mr B but I don't think BOS could have done any more to prevent Mr B's loss.

My final decision

My final decision is that I'm not upholding Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 10 April 2025.

Aleya Khanom
Ombudsman