

The complaint

Mrs M complains that Bank of Scotland plc didn't refund her money, that she believed was lost through an Authorised Push Payment ("APP") investment scam.

What happened

The background to this complaint is well known to all parties, so I won't repeat it all in detail here. But in summary, I understand it to be as follows.

In or around October 2019, Mrs M was recommended an investment by a family member. The investment was in respect of shares in a pharmaceutical company, which I'll refer to as 'E', as well as with another company, that I'll refer to as 'C'. Mrs M believed the investments were part of the Enterprise Investment Scheme (EIS) and so offered some tax relief.

Between October 2019 and April 2022, Mrs M made a number of investments to E and C, from accounts she held with Bank of Scotland. A list of these transactions is below;

	Date	For Investment	Payment Type	Amount
1	10 October 2019	E	cheque	£20,000
2	1 November 2019	E	cheque	£40,000
3	11 November 2019	E	cheque	£40,000
4	27 December 2019	E	Faster payment	£6,500
5	21 January 2020	E	Faster payment	£23,500
6	12 February 2020	E	Faster payment	£10,000
7	14 April 2020	E	Faster payment	£10,000
8	14 April 2020	E	Faster payment	£10,400
9	14 April 2020	E	Faster payment	£4,000
10	21 July 2020	E	Faster payment	£10,000
11	11 September 2020	C	Faster payment	£5,000
12	22 February 2021	C	Faster payment	£5,000
13	2 June 2021	C	cheque	£3,000
14	17 November 2021	E	cheque	£5,000
15	21 March 2022	E	cheque	£10,000
16	31 March 2022	E	cheque	£30,000
17	5 April 2022	C	cheque	£7,000

Mrs M believed she'd fallen victim to a scam when she was given a link for a stock exchange abroad, but only some of her shares were listed. Following this she carried out some research and saw reviews saying this may be fraudulent and friends of her family member suggested this may be a scam.

Mrs M raised a scam claim with Bank of Scotland for the payments made to E and C. Bank of Scotland responded and explained it had assessed the complaint under the Lending Standards Board's Contingent Reimbursement Model ("CRM") Code. However, it explained it was waiting for a police investigation to be concluded and that it was relying on provision R3 (1) (c) of the CRM Code, which states:

“If a case is subject to investigation by a statutory body and the outcome might reasonably inform the Firm’s decision, the Firm may wait for the outcome of the investigation before making a decision”.

So, it did not agree to reimburse Mrs M at that time. It did recognise the service it provided could have been better, in recognition of this it offered Mrs M £100 by way of compensation.

Mrs M then referred her complaint to this service. One of our Investigators looked into it. Having done so, our Investigator concluded it was fair for Bank of Scotland to rely on R3 (1) (c) of the CRM Code to delay providing an outcome to her claim.

Our Investigator also noted that not all of the payments Mrs M made would be covered by the CRM Code, as the Code doesn’t apply to payments made by cheque. So, our Investigator also thought about whether there was any other reason, outside of the CRM Code, why she might think Bank of Scotland might be responsible for reimbursing Mrs M, but she didn’t think there was. In summary, this was because she didn’t think Bank of Scotland would have identified any cause for concern about the payments Mrs M was making, as the documentation and information Mrs M would have been able to provide wouldn’t have led Bank of Scotland to be concerned. Our Investigator also didn’t think Bank of Scotland was required to pay any more compensation.

Mrs M didn’t agree with our Investigator’s view. In summary, she said she understood the Bank waiting for the decision from the Police, before making its decision. But she didn’t think Bank of Scotland had done its best for her.

As agreement hasn’t been reached the complaint has been 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.

I’m very aware that I’ve summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I’ve focussed on what I think is the heart of the matter here. If there’s something I’ve not mentioned, it isn’t because I’ve ignored it. I haven’t. I’m satisfied I don’t need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I’m mindful that, in her submissions to this service, Mrs M has mentioned actions that other banking providers have taken in respect of reimbursing their customers. That is a decision the other banking providers have made, however it doesn’t automatically follow that this service would consider other payment providers should do the same. Here, as I’m required to do, I’ve looked at the individual circumstances of Mrs M’s complaint.

It isn’t in dispute that Mrs M authorised the payments in question. Because of this the starting position – in line with the Payment Services Regulations 2017 – is that she’s liable for the transactions. But she says that she has been the victim of an authorised push payment (APP) scam.

Bank of Scotland has signed up to the voluntary CRM Code, which provides additional protection to scam victims. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam (except in limited circumstances).

However, Bank of Scotland has effectively sought to rely on provision R3(1)(c) of the CRM Code that allows it to wait for the outcome of an investigation by a statutory body before making a decision. I note in her response to our Investigator's view, that Mrs M has said she understands Bank of Scotland's position on this. But for the purpose of this decision, I will firstly consider if it is fair for it to rely on this provision in the circumstances. It is also important to note that the CRM Code only applies to faster payments made directly to another person's account. It therefore doesn't apply to the payments Mrs M made by cheque, so my consideration as to whether the provisions of the CRM code have been applied correctly, relates only to the faster payments.

Ultimately, Bank of Scotland has one of three options available to it; it can either accept a scam has occurred and consider whether it should reimburse Mrs M under the CRM Code (for the faster payments), it can decide that no scam has occurred and therefore not reimburse Mrs M, or it can decide to await the outcome of an investigation.

As set out above, Bank of Scotland has decided to await the outcome of an investigation by the police, and the CRM Code allows them to do so where the outcome of that investigation might inform their decision.

From what I have seen so far, I am not satisfied the evidence available to me indicates a scam has occurred in the circumstances. Mrs M has sent in evidence, which includes letters, emails and promotional materials. Looking at this documentation, it appears to be professional and alongside this Mrs M has said she received share certificates for the payments she made. Ultimately, what I've seen doesn't indicate that E or C were orchestrating a scam investment in order to induce payments from investors with no intention to use the funds as intended.

I have also reviewed information provided by the receiving bank account provider. I cannot go into detail about what these documents contain due to data protection issues. However, these do not clearly indicate a scam has occurred, or that the funds have not been used as intended. There is not the typical payment pattern I would expect to see in an investment scam complaint and some of the activity appears to be genuine. So, based on the evidence currently available to me, I cannot safely conclude that Mrs M has been the victim of a scam at this time.

Bank of Scotland has chosen to rely on provision R3(1)(c) of the CRM Code and await the outcome of the investigation by the police. Because nothing I have seen on file clearly indicates to me that Mrs M has been the victim of an APP scam, I think it is fair for Bank of Scotland to do so.

I do appreciate there is an ongoing police investigation and recognise that this may appear to be proof that Mrs M has been the victim of fraud—as it infers that the police have taken the matter seriously enough to pursue this course of action. However, the purpose of an investigation is to gather evidence. And that will likely go toward investigating what the intent was at the time; the result of which may or may not lead to a prosecution. But in and of itself, an investigation doesn't automatically mean that a fraud has occurred.

I'm mindful that there is the possibility that Mrs M has been the victim of fraud here. But from the information available to me, I cannot reasonably eliminate the possibility she has instead lost money to a failed investment. It is possible that further evidence may become known at a later date, which may indicate that fraud has taken place. Should such evidence come to

light, then Mrs M can complain to Bank of Scotland again, and refer the matter to this office, should she not be happy with the outcome.

Thinking of the payments that were not covered by the CRM code, I've gone on to consider whether there is any other reason why Bank of Scotland would be considered liable for Mrs M's loss. Bank of Scotland may have needed to intervene in the payments if they reasonably had concerns Mrs M may have been at risk of financial harm.

If I were to agree that Bank of Scotland should have intervened in some of these payments, it is difficult for me to agree that a conversation would have led to Mrs M not going ahead with the payments and stopping all future payments to E and C. As I have explained above, the information I have seen so far does not clearly indicate Mrs M has been the victim of a scam. There is debate to this day as to E and C's intentions. So, I think it's highly unlikely anything conclusive would've been available at the material time. I'm persuaded E and C would have appeared to have been genuine businesses and so investing in them would not have necessarily raised any red flags for Bank of Scotland.

Finally, I'm mindful that Bank of Scotland found it could have dealt with Mrs M's complaint in a timelier manner. In recognition of this, Bank of Scotland awarded Mrs M £100 by way of compensation.

I do appreciate the impact this matter has had on Mrs M, and I don't doubt having to wait for an answer would have added to this frustration and upset. In the circumstances of this case Bank of Scotland proactively recognised that the service it provided fell short of what could reasonably have been expected. The £100 it has offered Mrs M is an amount in line with what I would have awarded. So, I don't think it would be fair for me to order it to increase this amount.

I'm sorry to hear of what's happened to Mrs M and I have a great deal of sympathy for her. She has lost a significant amount of money and I don't doubt she has been badly let down by the companies she invested in. But, my role here is to consider Bank of Scotland's actions, and based on the evidence available I don't think it has acted unreasonably in relying on the provision of the CRM code that it has.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 27 October 2025.

Stephen Wise
Ombudsman