

The complaint

Mr C, via a representative, has complained that Bank of Scotland plc (“BOS”) failed to refund the money he lost as part of an investment scam.

What happened

The details of this complaint are well known to both parties, so I will not repeat everything again here. Instead, I will focus on giving the reasons for my decision.

In summary though, Mr C was added to a group chat on a messaging service that seemed to relate to crypto investments, but was actually a scam. I will call the scam company B.

Mr C then made around 15 payments to B. These were made by debit card payments and open banking to crypto exchanges. The funds were then converted into crypto and were sent to B. The payments made from Mr C’s BOS account totalled over £60,000 and took place in February 2025.

Mr C realised he had been scammed when he was unable to withdraw his investment profits without paying a series of additional fees. Mr C asked BOS to refund these payments, as he believes BOS should have done more to prevent him from being scammed in the first place. BOS did not agree with this.

One of our investigators looked into this matter and he thought that any intervention from BOS would not have stopped the scam. He said this because he believed that Mr C was under the spell of the scammer. He therefore did not uphold this complaint.

Mr C did not agree with this and therefore this case has been passed to me to issue 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 agree with the conclusions reached by the investigator for the following reasons.

In deciding what’s fair and reasonable, I am required to take into account relevant law and regulations, regulators’ rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, on what I consider is more likely to have (or would have) happened, in light of the available evidence and the wider circumstances.

In broad terms, the starting position is that BOS is expected to process payments and withdrawals that a customer authorises it to make. This should be in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

However, taking into account relevant law, regulatory rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable that BOS should:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;
- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – (as in practice BOS sometimes does); and
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

The investigator believed that BOS should have intervened when Mr C made a payment on 6 February 2025, as the payment was for £10,000. He thought that a human intervention would have been appropriate. I think that it is arguable that BOS should have intervened one payment earlier, as that payment represented three payments in one day to a crypto exchange. I accept that the total value of these payments was around £3,000, but three payments in one day to a crypto exchange could have been a sign that Mr C was being scammed. That said, regardless of whether BOS should have intervened, I don't think that an appropriate intervention would have stopped the scam.

I can see that BOS did intervene on 6 February 2025 but there are only limited notes as to what was discussed. But importantly, I can see that BOS intervened twice on 7 February 2025 and asked questions about the payments. Mr C gave answers that were misleading. He said he was not using an investment broker; nobody was helping him with his investment; and he also insinuated that he was not sending the funds on from his crypto account and he was holding the crypto in place. This prevented BOS from uncovering or preventing the scam.

I think that BOS should have intervened again later in the scam. But I think that the same thing would have likely happened. With this in mind, and given that BOS was only required to take proportionate steps to try and protect Mr C from financial harm, I'm not persuaded he would've shared anything concerning with BOS, had it questioned him more about what he was doing. So overall, I think that BOS should have intervened more than it did. But I do not think that this would have likely stopped or uncovered the scam or allowed BOS to provide a relevant warning that would have resonated with him.

I've also thought about whether BOS could have done more to recover the funds after Mr C reported the fraud.

BOS are under no obligation to refund the money, as the Authorised Push Payment Reimbursement Scheme does not cover transfers to an account in the customer's own name. I also don't think that a chargeback would have been successful as the debit card payments were essentially a means to move funds into his crypto account and this is what happened so there would be no grounds to challenge the payments.

I appreciate this will likely come as a great disappointment to Mr C, and I'm sorry to hear he has been the victim of a scam. However, whilst I have a great deal of sympathy for the situation that Mr C found himself in, I'm not persuaded that BOS can fairly or reasonably be held liable for his loss in these circumstances.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 13 January 2026.

Charlie Newton
Ombudsman