

The complaint

Dr P is unhappy Bank of Scotland (“BoS”) hasn’t offered her a refund after she complained about being the victim of a scam.

What happened

Dr P had recently purchased a property and was looking to complete some renovations. In November 2024, she reached out to a company I will refer to as “E”.

Dr P met with the director of E on four occasions and corresponded with him via text message and email. They discussed prices and some plans and 3D visuals of the interior design of the property were drawn up. Dr P was provided with a quote of just over £27,000 for the fixtures via invoice. This invoice indicated that Dr P would be invoiced separately for installation.

On 10 January 2025, Dr P paid a deposit of £13,845.43 (50% of the total cost agreed) to E’s business account from her account at BoS. The work was due to commence in February 2025.

On 7th February 2025, Dr P was provided with a quote of just under £20,000 for the instillation of the agreed fixtures and fittings. Dr P confirmed this was significantly above her original budget which she had made clear to E at the outset. At this point, Dr P requested to terminate her contract with E and requested a full refund of the deposit she had paid in January 2025.

At this point, Dr P says E became uncommunicative and failed to respond to her calls or emails. Suspecting she had been scammed, Dr P contacted BoS, the Police and her local Trading Standards. To date, E has not refunded Dr P’s deposit. Its director, who had originally been the person corresponding with Dr P, has become uncontactable and is no longer living at the address provided to her. Dr P has told us that the Police have put forward a motion for prosecution but have been unable to trace E’s director. There has been no update from Trading Standards.

BoS declined to offer Dr P a refund of the amount lost because it didn’t think she had been the victim of an APP scam. It thought her circumstances amounted to a private civil dispute with E about it not providing her with goods and services paid for.

Dr P disagreed with what BoS said and brought her complaint to this service where one of our investigators looked into things.

The investigator didn’t uphold Dr P’s complaint. They felt it was reasonable that BoS had deemed her circumstances a civil dispute, rather than a scam. They acknowledged E had treated Dr P poorly when not returning her deposit or responding to her communications but they didn’t think there was persuasive evidence that E had planned to deceive Dr P from the outset and not complete the work agreed. The investigator felt that it was more likely than

not the work had not gone ahead after there was a breakdown in relationship between Dr P and E following the installation quote being provided.

Dr P didn't agree with the investigator's outcome. In summary, she said:

- The burden of proof under the Payment Services Regulations ("PSRs") was on the bank, not her as the customer. The investigators findings, that there was no evidence of fraud in this case, shifted the burden of proof to Dr P who had been asked to prove a crime had been committed rather than the bank having to prove she wasn't at fault. Because of this, the investigators' explanation was inappropriate.
- No goods or services were ever delivered and the recipient of her funds had now disappeared which was a strong indicator of a sophisticated fraudulent scheme.
- No business accounts for E have been filed for the past two years, and this was suspicious.
- Artificial intelligence applications could quickly produce images that are of the same standard as the ones presented by E as 3D renders therefore these images cannot be used as proof of work carried out by E. The images were most likely produced quickly and easily to entice Dr P into sending funds.
- BoS failed to require enhanced authentication or provide effective warnings before allowing the payment Dr P made to E to leave her account. Dr P believes this violates the PSRs and FCA Principle 6 (Treating Customers Fairly). Dr P says she has made lower value payments since which have caused a security message to be sent to her mobile phone.
- This service has upheld cases similar to hers. She stressed that researching E before making the payment meant she had not acted negligently.
- The new mandatory reimbursement scheme that came into force on 7 October 2024 dictates that victims of in scope APP frauds be reimbursed unless the customer acted with gross negligence.
- She should not be expected to prove her innocence.

The investigator reviewed Dr P's comments but didn't change her mind and as an informal agreement could not be reached, the case 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.

Having reviewed all of the evidence provided to me, I agree with the outcome reached by our investigator, for largely the same reasons. I'm satisfied it was reasonable for BoS to reach the conclusion Dr P's circumstances amount to a civil dispute rather than a scam. So I won't be upholding this complaint. I'll explain why in more detail below.

Firstly, I want to set out that the PSR rules that Dr P set out in response to our investigator's opinion relate to *unauthorised* transactions. As Dr P is complaining about an *authorised* transaction (i.e. she made the payment herself), these rules don't apply here. There is no requirement in this case to prove that the transaction was authorised - as that is not disputed. And an assessment of whether Dr P acted fraudulently or with gross negligence is not required either. There is no suggestion Dr P did anything wrong when making this payment. It is clear she believed she was entering into an agreement that would result in the services she required being provided. However, as Dr P is saying she authorised the payment as a result of being the victim of a scam, the onus is on Dr P to evidence that this is the case. I've set out the relevant rules below.

The APP Scam Reimbursement Rules

Dr P is correct to point out that The Payment Systems Regulator introduced the APP Scam Reimbursement rules on 7 October 2024 to reimburse consumers who are the victims of APP scams in certain circumstances. However, these rules only apply where the customer has been the victim of an APP scam. In this case, BoS has not applied these rules as it does not agree Dr P has been the victim of an APP scam. The rules define an APP scam as:

“Where a person uses a fraudulent or dishonest act or course of conduct to manipulate, deceive or persuade a Consumer into transferring funds from the Consumer’s Relevant account to a Relevant account not controlled by the Consumer, where:

- *The recipient is not who the Consumer intended to pay, or*
- *The payment is not for the purpose the Consumer intended”*

Private civil disputes are not covered by the rules. The term private civil dispute is defined in the rules as:

“A dispute between a Consumer and payee which is a private matter between them for resolution in the civil courts, rather than involving criminal fraud or dishonesty.”

The Payment Systems Regulator in its published policy statement PS23/3 gives further guidance:

“2.6 Civil disputes do not meet our definition of an APP fraud as the customer has not been deceived [...] The law protects consumer rights when purchasing goods and services, including through the Consumer Rights Act.”

It provides an example of when this might apply:

“...such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier.”

Taking into account the above, I have gone on to think about whether it was reasonable for BoS to deem Dr P’s circumstances a private civil dispute between her and E rather than a scam. And I’m satisfied it was. I’m satisfied Dr P did pay a legitimate supplier for goods and services but has not received them - and this scenario is specifically excluded under the above rules. Dr P’s recourse would be under consumer protection law via the civil courts, and not something the bank should become involved in now.

For Dr P to have been the victim of an APP scam, she must have been deceived about the very purpose for which her payment had been procured. Here the purpose of the payment was a deposit to engage the services of E, have some interior plans drawn up and to purchase some of the products that would be used in her renovation. I understand Dr P didn’t receive any of the products she paid for but the messages shared between her and E do appear to evidence that a number of meetings took place between E and Dr P (four in total) and that layouts and 3D plans were drawn up and agreed on before the deposit was paid. The plans and other paperwork appear to be comprehensive and detailed. I don’t agree that AI apps being able to produce similar images should detract from that now. However, it appears that at this point, Dr P’s professional relationship with E broke down when Dr P was asked for more funds than she had initially expected / agreed. And whilst this clearly would be upsetting and disappointing for Dr P, it doesn’t mean that she has now been

the victim of a scam. It's equally likely that some or all of Dr P's deposit had been used to pay third-party contractors or secure products before the agreement was terminated or that the deposit paid was non-refundable.

So, whilst I understand why Dr P is unhappy that she hasn't received any of the fixtures she paid for, she may well have a genuine dispute with E about what has taken place. But her circumstances are primarily a civil and contractual dispute between two parties – for goods and services paid for but not received - which is specifically excluded under the scam reimbursement rules.

I want to acknowledge what Dr P has said about not being able to contact the director of E and about it not filing company accounts for a number of years. However, I don't think this supports the conclusion that Dr P has fallen victim to a scam. This is equally likely to be the result of poor business practices or financial difficulties.

As BoS didn't need to consider this as an APP scam, it didn't need to go on to contact the recipient account provider and it didn't need to intervene with the payment before it was processed either. And, even if BoS had contacted Dr P either via text message or in person before the payment left her account, I don't think it would have made a difference given that Dr P was apparently engaging with a legitimate interior design business. There wouldn't have been anything concerning about this that meant BoS should've refused to make the payment on Dr P's behalf. I'm not persuaded BoS could or ought to have known that Dr P would end up suffering a loss. Dr P's arguments surrounding enhanced authentication are not relevant to the outcome here because as I've said above, this transaction was correctly authorised.

I've seen no other reason to recommend that BoS offer to refund Dr P a refund of the amount she paid for E. I'm satisfied that BoS have reached a reasonable conclusion when considering Dr P's claim.

So, whilst I have significant sympathy for the position Dr P has found herself in, I know she has lost a lot of money, I don't think her circumstances meet the high legal bar for this to be a scam and because of this, I don't think it would be fair to hold BoS responsible for the money she lost now.

My final decision

My final decision is that I do not uphold this complaint about Bank of Scotland Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 20 March 2026.

Emly Hanley Hayes
Ombudsman