

The complaint

Mrs N is unhappy that Bank of Scotland Plc haven't refunded money she lost as a result of a scam.

Mrs N is being represented by a professional representative but for ease of reading I'll only refer to Mrs N in the decision.

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.

Around late 2020 Mrs N saw a video on social media advertising crypto investments with a merchant. She provided her details and was contacted by a representative who then helped Mrs N open accounts at two genuine crypto exchanges via screensharing software. Mrs N made six payments to an account held in her name with an Electronic Money Institute (EMI) and the crypto exchanges between 16 October and 02 November 2020. In total she sent around £14,85.

Mrs N realised she had been scammed when she was continually asked to provide further funds to release her 'profits' from the platform. Mrs N raised a claim with Bank of Scotland, but it didn't offer her a refund. Unhappy with that response, she decided to make a complaint to this service.

Our Investigator wasn't persuaded that Mrs N had more than likely been a victim of a scam because there wasn't sufficient evidence that her money was being sent at the request of a scammer and then to a scam merchant. He said she sent around £8,000 to a crypto exchange via her EMI account. But then returned around £7,786 to her Bank of Scotland account five days later. There were then further payments directly to the crypto exchange that is now in liquidation. But there was no further evidence to show that money being lost to a scam. The Investigator added that even if he was satisfied a scam had taken place, he didn't think the payments Mrs N made directly to the crypto exchange would've seemed sufficiently unusual to Bank of Scotland.

Mrs N disagreed and asked for an Ombudsman's review. She said that the payments were lost to a scam and should've been considered unusual by Bank of Scotland.

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've decided not to uphold this complaint for largely the same reasons as our Investigator.

It isn't in dispute that Mrs N authorised the payments she made to legitimate crypto exchanges and the EMI. Mrs N has said the funds were then transferred on to a trading platform from a crypto exchange with the help of a scammer.

The payments were requested by Mrs N using her legitimate security credentials provided by Bank of Scotland. In line with the Payment Services Regulations 2017, consumers are liable for payments they authorise. And Bank of Scotland is expected to process authorised payment instructions without undue delay.

Bank of Scotland also has obligations to help protect customers from financial harm from fraud and scams. Those obligations are however predicated on the funds having been lost to a fraud or scam.

Mrs N has said she has provided as much information as possible given the scam occurred around five years ago. But there are no copies of any scam chats at the time to know exactly what was being said and we don't have evidence of a loss occurring from the liquidated crypto exchange. I've also noted that she couldn't remember the existence of an account that was used to move some of the money to the scammers at the time when asked by the Investigator.

From the evidence we do have, I can see that Mrs N has supplied a fake invoice from the merchant she says scammed her at the time. And I note a Financial Conduct Authority (FCA) warning about that merchant from 26 November 2020 which is after the scam payments were made here. So, I think it's more likely than not Mrs N was involved with a scammer at the time of the payments. However, even though I'm satisfied it's more likely than not Mrs N was scammed at the time. I'm not satisfied that means Bank of Scotland can reasonably be held at fault for her loss.

There were two payments for £4,000 that were made to an account in Mrs N's name with an EMI. Although these payments were larger than payments she had made previously from this account they were going to an account in her name. So, at the time of the payments, I'm not satisfied Mrs N moving money to her other account would've been considered suspicious to Bank of Scotland. I've also seen that this money was eventually returned to Mrs N's account with the EMI from the crypto exchange and wasn't lost to the scam.

Mrs N then made further payments directly to a crypto exchange which ranged from £1,100 to £3,800. I've considered whether there was enough happening here for Bank of Scotland to have been suspicious of the crypto payments. They were to a new high-risk exchange as Mrs N has pointed out. So, it's arguable that given there had been a change in Mrs N's account activity Bank of Scotland should've asked her why she was making the payments to the crypto exchange here. But if it did, I don't think this would've made a difference here.

According to Mrs N's testimony to this service she was being guided every step of the way by the scammer via a screen sharing app and over the phone. This has been confirmed by one of the loan companies Mrs N raised a claim to in November 2020. Mrs N said the scammer helped her take out the loan and then helped her move the money from her account to the exchanges. So, even if Bank of Scotland had stopped one of the payments and asked Mrs N why she was making it, it appears to me – on balance - that the scammer would've been able to tell Mrs N what to say to the bank to get the money to be sent to the exchanges (i.e. personal investment). Mrs N wouldn't have likely been able to take a loan out with a reason of making an investment, or without giving the scammer a code from the lender that was sent to her mobile phone. So, I'm satisfied the scammer was supporting and manipulating her at the time of the payments to try and get the funds from the loan companies and then onto the scam.

I've also considered that even though Bank of Scotland would've been on the lookout for scams at the time, it's knowledge of crypto related investment scams wouldn't have been as extensive as it would be now. So, I think on balance, Mrs N with the scammer supporting her in making the payments, would've been able to send the money to the crypto exchange without the scam being uncovered.

Recovery

When Bank of Scotland was made aware of the scam it didn't attempt to recover the money from the crypto exchanges. One of them has been liquidated and Mrs N has provided evidence of the funds that were sent to the other exchange being returned to her EMI account at the time. So, I can't say that Bank of Scotland treated Mrs N unfairly by not attempting to recover her money as she has confirmed the money was then forwarded to the scammers. So, no money was left for Bank of Scotland to recover.

As a result of the above, I'm not going to ask Bank of Scotland to do anything more here.

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 N to accept or reject my decision before 12 December 2025.

Mark Dobson
Ombudsman