

The complaint

Mrs B has complained that The Royal Bank of Scotland Plc (RBS) won't refund money she lost to a scam.

What happened

Mrs B has explained she came across the 'investment opportunity' which was endorsed by a celebrity. She clicked on the link and provided her details, shortly after, she received a call from the scammer and started investing.

Mrs B has explained that she gave the scammer access to her devices via any desk and was told to open up an account with two electronic money institutions (EMI's) which I will refer to as R and E and an account with a cryptocurrency platform which I will refer to as C.

After making several payments towards the scam, Mrs B has said she was then contacted by someone who appeared to be from HMRC who said she was under investigation for money laundering. She was therefore instructed to move her remaining money out of the account. Following that Mrs B said she was told by the scammers she needed to take out a loan, this ultimately led to the scam being uncovered.

The scam was reported to RBS on 9 September 2024, and it issued its final response on 30 October 2024. Mrs B feels that RBS ought to have intervened and if it had done so it would have prevented her losses. RBS said there was no error on its part so it could not uphold Mrs B's complaint. They also say the loss to the scammer didn't occur with RBS so Mrs B would need to raise the matter with E.

Mrs B brought the complaint to our service but the investigator didn't recommend it be upheld. As such, Mrs B asked for the case to be passed to me to consider.

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 investigator's findings for broadly the same reasons, I will explain why.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. It isn't disputed that Mrs B knowingly made the payments from her account and so, I'm satisfied she authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of her account, RBS is expected to process Mrs B's request, and she is presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for RBS to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

The question then arises whether RBS ought reasonably to have held such suspicions or concerns in relation to Mrs B's payments - and if so, what might've been expected from a proportionate intervention at that time. Further to that, where there is an interaction between a customer and a bank before a high value payment is processed, as there was here, I'd expect the bank to take reasonable steps to understand the circumstances of that payment.

So, taking all of this into account, I need to decide if RBS acted fairly and reasonably in their dealings with Mrs B when she made the payments. Specifically, whether they should've done more than they did before processing them – and if they had, would that have made a difference. I also need to decide if RBS could've reasonably recovered the lost funds.

Having reviewed Mrs B's account activity, I'm satisfied it wouldn't be reasonable to expect RBS' systems to have been triggered by payments one to three. I say this because I am not persuaded the payments carried a heightened risk of fraud. The payment values were not remarkably large, were in line with usual account activity and didn't have any other factors which I think RBS ought to have been concerned about at the time. The payments were not significant enough to have triggered its systems; nor were there sufficient grounds to justify delaying the payments.

However, by payment four made on 4 September 2024 for £8,000, I think there was enough about this payment which ought to have stood out as suspicious or uncharacteristic for RBS. I say this because, at this stage, there had been an increase in Mrs B's expenditure, over a short period of time, which wasn't in line the Mrs B usual account activity. As such, I am satisfied that RBS ought to have intervened.

Therefore, I have gone on to consider what I think would have been a proportionate intervention from RBS at the time. The FCA's Consumer Duty, which was in force at the time these payments were made, requires firms to act to deliver good outcomes for consumers including acting to avoid foreseeable harm. In practice this includes maintaining adequate systems to detect and prevent scams and to design, test, tailor and monitor the effectiveness of scam warning messages presented to customers. As such, firms, have developed warnings to recognise both the importance of identifying the specific scam risk in a payment journey and of ensuring that consumers interact with the warning.

In light of the above, by September 2024, when these payments took place, RBS should have had systems in place to identify, as far as possible, the actual scam that might be taking place for example by asking a series of automated questions designed to narrow down the type of scam risk associated with the payment she was making – have provided a scam warning tailored to the likely scam Mrs B was at risk from. I accept that any such system relies on the accuracy of any information provided by the customer and cannot reasonably cover off every circumstance.

However, RBS did intervene on a payment Mrs B attempted to make on 20 August 2024 when it asked Mrs B to contact it to discuss the circumstances surrounding her payment. Having listened to the call I am satisfied RBS asked Mrs B open and probing questions to try and establish the circumstances surrounding the transaction. However, it is apparent that Mrs B didn't provide accurate answers to the questions RBS asked. So, while, this intervention isn't as I have described above (it is in fact stronger than the intervention I felt was proportionate) I am satisfied if it had of intervened as outlined above, Mrs B would have answered the questions in a similar manner.

This is also supported by the fact that a third party, R, also intervened on Mrs B's transactions, which she made on 29 July 2024.

Again, I can see R asked questions in line with the warning I outlined above, but Mrs B didn't provide honest answers to the questions she was asked. And despite R stating that Mrs B could be being scammed she still proceeded with the transactions. I am satisfied this is due to Mrs B being heavily under the influence and guidance of the scammer as her representative has pointed out. As such, I am persuaded that even if further interventions had been done by RBS, due to the guidance given by the scammer it is unlikely Mrs B would have provided accurate answers to the questions asked, which in turn would have prevented RBS identifying the risk Mrs B faced.

I appreciate Mrs B's representative has raised concerns about her vulnerability and what information (such as her age and the fact she receives a widow's state pension) RBS was privy to. Mrs B's representative has referred to the FCA guidance in regards to this. And while I agree, it is for advisors at RBS to identify potential vulnerabilities when treating its customers fairly. In this case, RBS did intervene, as highlighted above. However, the scam wasn't unveiled due to the information Mrs B provided, not just to RBS but other institutions which also intervened also.

Recovery

I've also thought about whether RBS could have done more to recover the funds once it became aware of the situation, as in some circumstances the money can be recovered. It's important to note that Mrs B didn't ask RBS to send the money directly to the scammer but to an account in her own name under her control. RBS did as Mrs B requested. So, it was always highly unlikely that RBS would be able to facilitate the recovery of the payment after they were moved on from Mrs B account with the third party to the scammers. So, it follows that I won't be asking RBS to do anything further.

All things considered, and despite my natural empathy for this cruel scam and the situation Mrs B finds herself in having lost her money, I'm not persuaded RBS taking different actions would have prevented the payments being made, or the loss that ensued, for the reasons I have explained. It follows that I do not consider it fair or reasonable to require RBS to do anything beyond what it has already done for this complaint.

My final decision

My final decision is that I won't uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 14 January 2026.

Jade Rowe
Ombudsman