

The complaint

Mr I and Ms J complain that Bank of Scotland plc ('Bank of Scotland') won't reimburse the funds they lost when they paid money to what they believe was a scam.

It was Mr I that made the disputed payments so for the most part I will only refer to him throughout this decision.

What happened

The background to this complaint is well known to both parties. So, I won't repeat everything again in detail here, but in summary I understand it to be as follows:

Mr I saw a flat advertised by an online property auction company I'll refer to as "F". Interested in purchasing the flat, Mr I made the winning bid of £13,000. On 25 July 2024 Mr I made a payment of £6,900 to an account in the name of F from his Bank of Scotland account. This was the deposit for the purchase plus an administration fee charged by F.

Mr I instructed a solicitor, I'll refer to as "K", to facilitate the purchase of the flat. On 28 August 2024 Mr I sent the remaining balance of £10,000 from his Bank of Scotland account to an account in the name of K.

After the final payment was made, Mr I says he had to chase K for updates and paperwork and that he wasn't provided with keys to the flat. Mr I believed the purchase hadn't completed and asked both F and K for his money back. Mr I was later provided keys by the seller's solicitors, but they didn't work and Mr I hasn't been able to access the flat because it's been secured by a security company while the building is unoccupied.

Mr I believes he has been the victim of a scam involving F, K and the seller's solicitor. He says that F couldn't sell the flat as it didn't have possession of it and the sale hasn't been completed because Mr I also doesn't have possession of the flat. He has also said F presented the sale of the flat as freehold when it was actually the leasehold title that was for sale. Mr I says K registered the title with HM Land Registry without his consent after he had already told K about his concerns and that he wanted his money back. Mr I has also raised other points about K's conduct, as well as the actions of the seller's solicitor and the owners of the freehold title of the building.

Neither F or K have refunded Mr I. F said the purchase was fully completed and Mr I has ownership, the issue of access was his responsibility and it was also his responsibility to carry out his due diligence before bidding in the auction.

Mr I raised his concerns with Bank of Scotland but it said that what happened was a 'civil dispute' and not a scam so it wouldn't reimburse him. Mr I raised a complaint and Bank of Scotland sent Mr I its response on 28 November 2024 and reiterated that it thought the matter was a civil dispute which was not covered by the relevant reimbursement rules.

One of our Investigators looked into the complaint. In her assessment, she concluded that the money Mr I sent to F and K was used for its intended purpose – which was to purchase the flat, and she wasn't persuaded by the evidence that F or K deceived Mr I at the time of

the payments, with no intention of fulfilling the purpose of the payments from the outset. As such, she couldn't hold Bank of Scotland liable for the loss.

Mr I didn't agree with the outcome and pointed to the evidence and reasons he'd provided as to why he felt the matter was a scam and he should be reimbursed by Bank of Scotland. As the complaint couldn't be resolved informally, it has been passed to me to make a 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 have summarised this complaint in less detail than the parties involved. I want to stress that no discourtesy is intended by this. If there is a submission I have not addressed, it is not because I have ignored the point. It is simply because my findings focus on what I consider to be the central issues in this complaint.

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 take into account what I consider to have been good industry practice at the time.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities. In other words, on what I consider is more likely than not to have happened in light of the available evidence.

Having considered everything carefully, I agree with the findings of our Investigator and I'm not upholding the complaint. I'll explain why.

It's my role to consider whether Bank of Scotland is responsible for Mr I and Ms J's losses. I know it will be disappointing for Mr I and Ms J, but I am not recommending that Bank of Scotland refund them here.

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

As Mr I authorised the payments, there are a limited number of circumstances in which Bank of Scotland would be liable to refund him, namely that he's been the victim of an authorised push payment ('APP') scam. Our Investigator explained why she didn't think Mr I had been the victim of an APP scam. I agree with our Investigator and I'll explain why.

The CRM Code

Bank of Scotland was a signatory to the Contingent Reimbursement Model Code ('CRM Code'). Under this code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam, except in limited circumstances. But the CRM Code only applies if the definition of an APP scam as set out in it, is met.

I have considered whether Mr I's claim falls within the scope of the CRM Code, which defines an APP scam as:

“... a transfer of funds executed across Faster Payments...where:

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent”.*

The CRM code also specifically excludes private civil disputes:

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

So in order to determine whether Mr I has been the victim of a scam as defined in the CRM code I need to consider whether the purpose he intended for the payments was legitimate, whether the purposes he, F and K intended were broadly aligned and then, if they weren't, whether this was the result of dishonest deception on the part of F and K.

I don't have the power to speak to or conduct an investigation into F, K or the seller's solicitor. Part of what is required here is to establish the intent and state of mind of the person(s) accused of this fraud about the purpose of Mr I's payments.

The broad purpose of Mr I's payments to F and K were to pay for administration fees and to purchase a property. Nothing indicates to me that Mr I didn't think this was genuine at the time of the payments, and there's no dispute that the payments were received by the recipients Mr I intended to pay. But I'm not satisfied the evidence I've seen shows that F and K had different purposes in mind for the payments, or that Mr I's, F and K's purposes for the payments weren't broadly aligned.

While I have very carefully considered all of the reasons and evidence provided by Mr I, these do not fundamentally speak to the purpose for which funds were procured. F and K ultimately did facilitate the purchase of the flat Mr I intended to purchase. The evidence I've seen suggests that Mr I successfully purchased the property he intended to purchase and it's currently registered in his daughter's name as he requested.

The contract I've seen sets out that the purchase is for the leasehold title of the flat, the purchase price was £13,000 and the remaining balance was £10,000. As mentioned above, Mr I paid £6,900 to F, of which £3,000 was the deposit and £3,900 were F's fees. Mr I instructed K to help with the purchase and ahead of Completion he paid the balance of £10,000 to K. Mr I has provided evidence from HM Land Registry that confirms that Mr I's daughter is the registered owner of the flat and while the registration wasn't sent until November 2024, HM Land Registry confirmed that the 'Transfer' it received was dated 30 August 2024 – shortly after Mr I paid the balance. So Mr I's daughter is now the registered owner of the flat that Mr I paid for, as intended. This suggests the seller received the £13,000 Mr I agreed to pay for the flat.

And the remaining £3,900 Mr I paid to F was its fee, as agreed, for acting as the auction house. There's nothing to suggest that the purposes F and K had in mind for Mr I's payments weren't legitimate or aligned with Mr I's purpose for the payments.

None of the evidence I've been provided with suggests that either F or K weren't legitimate businesses. F is a limited company registered with Companies House and has been trading for many years. K is a regulated solicitor's firm authorised by the Solicitors Regulation

Authority and also a limited company registered with Companies House for several years. I understand Mr I has raised complaints about F and K to the relevant regulatory bodies, but none of the evidence I've seen suggests that either F or K aren't legitimate businesses. I've also received confidential information I'm unable to share due to data protection laws from the banks that received Mr I's money. While I can't go into detail, the information I've seen doesn't raise any concerns about the running of either accounts or in relation to the payments Mr I made.

Mr I has mentioned that he tried to raise the matter with the police, but as I understand it they didn't go ahead with an investigation. Mr I has also raised a complaint with another dispute resolution organisation in relation to F's actions and to the Solicitors Regulation Authority about K. At present, none of the outcomes Mr I has received suggest that either F or K have acted fraudulently in their dealings with Mr I or that they intended to deceive him. But if any investigation, current or future, were to take place and result in any new or material evidence relevant to Mr I's claim that evidences an intent to defraud Mr I, then he can of course raise a new complaint with Bank of Scotland at that time.

I appreciate that the keys Mr I was provided by the seller's solicitor didn't work and the building the flat is in is also currently secured and inaccessible. I'm not saying Mr I doesn't have genuine grounds to be unhappy about the actions of F or K. But based on the evidence I've been provided, on balance, I think this a dispute between Mr I and two legitimate suppliers of goods that he is dissatisfied with. In other words, a private civil dispute, rather than an APP scam.

In summary, though I haven't referenced or addressed every point and piece of evidence Mr I has provided, I have carefully considered everything he has sent to us. I sympathise with the position Mr I has found himself in. I appreciate that he has paid a lot of money and that the property he has purchased isn't currently accessible. But I can only look at Bank of Scotland's responsibilities here, and for the reasons I've explained, I don't think it would be fair to hold Bank of Scotland responsible for the money Mr I sent to F and K and I consider Bank of Scotland acted fairly when it didn't reimburse Mr I under the CRM Code.

Should Bank of Scotland have done anything else to prevent the scam?

I have gone on to consider whether there is any other reason I can require Bank of Scotland to reimburse Mr I. Bank of Scotland should be on the lookout for, and protect its customers from, potentially falling victim to fraud or scams. This includes monitoring accounts and identifying suspicious activity that appears out of character. Where potential fraud is identified, I would expect Bank of Scotland to intervene and attempt to prevent the losses for the customer.

Interventions

Bank of Scotland has suggested Mr I was asked about the purpose of each payment he made and chose the option "Invoice or Bill" and was shown a written warning. I think this was a proportionate response to the first payment. Based on the size of the second payment though I'd have expected Bank of Scotland to have called Mr I at the time of the payment to try and identify the fraud risk and provide appropriate warnings to him.

But I need to consider causation – whether suitable interventions would have made a difference to Mr I's decision making or if Bank of Scotland could have reasonably prevented the payments. In deciding this, I need to consider the information that was available at the time the payments were made.

Having considered this information, I'm not persuaded Bank of Scotland would have had any concerns if it had spoken to Mr I about either payment. F was a longstanding registered company, Mr I had used F's online auction services and won a bid for a property and had received confirmation of the fee and deposit he was expecting to pay. Similarly, when the larger payment was made, it was to genuine solicitor for the purchase of a property he was expecting to make a payment for and believed was genuine. There was nothing in the public domain or anything suspicious about either F or K at the time of the payments that would have caused Bank of Scotland concerns that Mr I might have been at harm from fraud. So I can't fairly say Bank of Scotland could've prevented Mr I's funds from being sent.

Recovery of funds

Bank of Scotland didn't try to recover Mr I's funds when he reported the matter to it. But I would only have expected Bank of Scotland to have attempted to recover the funds from the bank that received them, if it thought Mr I was the victim of a scam. Because I've come to the conclusion that what happened wasn't an APP scam, I can't hold Bank of Scotland liable to reimburse Mr I for not attempting to recover the funds from the recipient bank accounts when he raised the claim.

Summary

I'm sympathetic to the position Mr I and Ms J find themselves in and I am sorry to have to deliver this news to them. But for the reasons I have explained and based on the available evidence I have seen; I consider the matter is a civil dispute which isn't covered by the CRM Code and is therefore something that needs to be resolved between the individual parties through alternative methods. I also don't think Bank of Scotland could have done anything more to have prevented Mr I and Ms J's money from being sent or to recover it after Mr I reported the claim to it.

It follows that I don't think Bank of Scotland plc is liable to reimburse Mr I and Ms J under the CRM Code or otherwise.

My final decision

For the reasons explained, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I and Ms J to accept or reject my decision before 17 March 2026.

Mike Southgate
Ombudsman