

The complaint

Mr M complains that The Royal Bank of Scotland Plc ('RBS') didn't do enough to protect him when he was scammed while attempting to recover returns from another scam investment.

What happened

The details of this complaint are well known to both parties, so I will not repeat them again here. The facts are not in dispute so I will focus on giving the reasons for my 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 these reasons:

- It isn't in dispute that Mr M authorised the transactions in question. While the scammer was involved in the payments, Mr M did complete them and when RBS stopped payments, Mr M speaks to RBS and confirms he's making, and has made the scam payments. So he is therefore presumed liable for the loss in the first instance.
- However, RBS is aware, taking longstanding regulatory expectations and requirements into account, and what I consider to be good industry practice at the time, that it should have been on the look-out for the possibility of fraud and made additional checks before processing payments in some circumstances.
- RBS did this on two of Mr M's payments, calling Mr M both times to discuss what he was doing. On the first call the adviser asks Mr M if he was involved with a third party, or someone was advising him, mentioning investments and Mr M says no and that he's doing all this himself. She also says about common scam practices including sending money to release funds. This should have resonated with Mr M, but he maintained he was investing independently, despite the fact he was doing everything due to third-party guidance.
- Mr M does indicate he is receiving advice at one point in the call and the call handler picks up on this. But he then he says he saw some information online; he didn't mean he was receiving actual advice. And so again he misleads RBS to what is truly going on.
- Mr M also misleads RBS in the second call it has with him, but I accept this intervention call isn't as good as the first call. However, the call handler did give out information that should've indicated to Mr M he may be falling victim to another scam.
- Looking at the transactions that took place in this case, I do think RBS ought to have spoke to Mr M sooner than it did. But I'm not persuaded this call would've gone any differently to the two calls that then did happen. Mr M's representative has said that a human intervention was needed – but this is what happened and Mr M deliberately misled RBS and didn't listen to the scam warnings it gave him.

- I don't agree that it was proportionate to invoke banking protocol on this case, as the representative has suggested. Mr M's answers to the questions weren't generally concerning and he gave the impression he was paying his own account to potentially, independently invest. Because of his coaching, the information he shared and answers he gave didn't indicate he was at risk, so that invoking banking protocol would've been proportionate.
- Reviewing the evidence on this case and the linked complaint, I'm not persuaded that any earlier intervention by RBS would've uncovered this scam and so prevented Mr M's losses. Unfortunately he was too under the spell of the scam, so willing to act as the scammer told him and not honestly respond to RBS. And I don't consider another intervention was needed, due to the payee then being known and trusted. And the spending pattern not being out of character or concerning.
- While Mr M has undoubtedly been the victim of a cruel scam, I can only uphold his complaint if I'm satisfied RBS's failings made a material difference to what happened. For the reasons given, I'm not persuaded that they did.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 25 October 2024.

Amy Osborne
Ombudsman