

The complaint

Mr H via his representative has complained that The Royal Bank of Scotland Plc ("RBS") has refused to refund his money he lost as the result of a scam.

What happened

Mr H watched a YouTube video by a famous influencer who was promoting a Bitcoin trading company that I will call B. From what I can see he made a transfer of over £12,000 in December 2017 from his current account to buy cryptocurrency from Coinbase that Mr H says was then forwarded onto B.

Mr H says that he tried to withdraw his funds but found out that B's website was no longer operational.

Some years later Mr H raised a complaint with RBS as he believed that RBS should have stopped him from making the payment in question.

One of our investigators looked into this matter and they decided that given the timescales involved we would not be able to tell if RBS contacted Mr H in relation to the transfer and in any event she could not be sure if any intervention would likely have changed Mr H's decision to carry out the transactions in question.

Mr H did not agree with this and therefore his complaint was passed to me to issue 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.

Mr H has accepted he authorised the payment he made, so the starting point here is that Mr H is responsible for making the payment. However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

Given the size of the payment RBS should have contacted Mr H to discuss the payment but as this transfer happened in 2017 and RBS does not have records from this point we simply do not know if an intervention happened or what was said if one did.

What I do know is that scams that involved cryptocurrency were not as well-known at this point. So had RBS asked what Mr H was intending to do and he told them he was purchasing cryptocurrency in order to send it to an investment, I don't think this in itself would have caused RBS to have become aware that Mr H was likely being scammed. Especially as details about B even now are hard to find.

There was a Ponzi scheme with a very similar name who at the time were acting as a platform where people could loan crypto currency to other people in return for earning interest and this website was shut down around the time indicated by Mr H. But as there were legitimate exchanges that were doing the same thing at the time, Mr H describing what he was about the do would not necessarily have alerted RBS that Mr H was being scammed.

All that RBS could have done was to give a generic warning about the risk of scams in general, such as asking Mr H to research B and saying that cryptocurrency was a risky investment. Also given that cryptocurrency was unregulated, RBS could not ask Mr H to ensure the companies he was dealing with were regulated by the FCA either. I can't see any credible warnings online from the time this occurred about B either, though this is difficult to establish given the timescales involved. So, I don't think RBS directing Mr H to research B would have changed anything at the time.

So overall, for the reasons I've explained, I don't know if RBS intervened at the time and in any event, I am not persuaded intervention from RBS would've made a difference and prevented Mr H's loss in the particular circumstances of this case.

In relation to whether RBS could recover the funds this occurred prior to the Contingency Reimbursement Model starting and in any event the funds were initially transferred to a Coinbase account in Mr H's name. So, I don't think that RBS could have recovered the funds.

Overall, having considered everything, I do not uphold this complaint for the reasons given above.

My final decision

For the reasons given above my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 October 2023.

Charlie Newton
Ombudsman