

The complaint

Mrs H complains that The Co-operative Bank Plc (“Co-Op”) won’t refund £20,035 she lost to an investment scam in February 2014.

The details of this complaint are well known to both parties, so I won’t repeat everything again here. Instead, 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 the following reasons:

- It isn’t in dispute that Mrs H authorised the disputed payment of £20,035 she made to the scam investment company (“A”) in 2014. The international payment was requested by her using her legitimate security credentials provided by Co-Op, and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.
- However, I’ve considered whether Co-Op should have done more to prevent Mrs H from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character.
- Mrs H appears to have made the payment over the phone with Co-Op in 2014. And given it was a large international payment, I would’ve expected Co-Op to make further enquiries about the payment when it had the opportunity while speaking to Mrs H. However, the bank has been unable to provide a copy of the call recording to show what was discussed, which isn’t surprising given the length of time that has since passed. So, it’s not possible to determine whether Co-op asked Mrs H any questions about the investment she was making. But in any event, even if Co-Op did fail to make reasonable enquiries at the time, I’m not persuaded it would have likely stopped Mrs H from proceeding with the payment or have ultimately prevented her loss.
- I say this because there was no negative or adverse information about A in 2014 that either Mrs H or Co-op could’ve found if either party had looked into the investment further. Mrs H says that Co-Op must have known that she was dealing with a scammer, but she hasn’t provided any reasons or evidence to demonstrate why. And given the lack of information available about A at the time, I’m not persuaded Co-Op ought reasonably to have known that she was being scammed, and neither do I think further questioning or a scam warning would have likely revealed this either. Indeed, Mrs H had received official looking paperwork from A and did not actually discover she had been scammed until 2022, some eight years after she’d initially invested. I appreciate a warning has since been published about A, but this wasn’t until a couple of years *after* she had already made the investment. There also wasn’t as much information known to banks

about investment scams in 2014 compared to what is known now.

- As a result, even if Co-Op had questioned Mrs H about the investment or even provided her with a scam warning, I'm not persuaded that any further checks she could have carried out would have revealed that she was likely being scammed. Therefore, I don't think Co-Op's failure to intervene can reasonably be considered as the proximate cause of Mrs H's loss in these circumstances, as it seems likely she would have proceeded with the transaction irrespective of any intervention by the bank. I appreciate Mrs H considers she was vulnerable at the time, but I've not seen anything to suggest that Co-Op ought reasonably to have been aware of any vulnerabilities, such that it should have refused to carry out her payment instruction.
- I also don't think there was anything more Co-Op could've done to recover the funds after Mrs H reported the fraud. I can see it reached out to the beneficiary bank, but it was unfortunately informed that no funds remained and that the receiving account had since closed.

I appreciate this will likely come as a disappointment to Mrs H, and I'm sorry to hear she has been the victim of a cruel scam. I don't underestimate the impact this has had on her. However, in the circumstances, I do not consider it would be fair and reasonable to hold Co-Op liable for her loss.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 30 January 2024.

Jack Ferris
Ombudsman