

The complaint

Mr T complains that National Westminster Bank Plc, trading as Ulster Bank ("Ulster") won't refund over £282,000 he lost to an investment scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat everything again here. In brief summary Mr T fell victim to an investment scam after being contacted by an individual on social media with a cryptocurrency investment opportunity. He was referred to a broker ("F") who said they were regulated by the FCA and provided an authorisation number.

Mr T was encouraged to invest and, between May 2021 and May 2022, he made over 100 payments totalling £282,189.19 to crypto wallets in his own name, where the money was then transferred on to the scammer under the pretence of him placing 'trades' on the platform 'Investment and Pension Limited'.

Mr T realised he had been scammed when he was unable to withdraw any of his investment and he discovered that the FCA authorisation number he'd been given had been cloned from a genuine firm operating under the same name as F.

Mr T reported the fraud to Ulster and asked it to consider refunding the money. He said that he spoke to the bank in January 2022 with regards to one of the disputed transactions, where he confirmed that it was him making the payment. However, he considers that Ulster failed to take reasonable steps to protect him from the scam as it didn't ask any further questions about what he was doing.

Our investigator didn't uphold the complaint. He thought that Ulster could've gone further when it intervened on 24 January 2022 in light of the unusual activity on Mr T's account, but he didn't think this would've ultimately prevented the loss due to Mr T's belief in the investment being legitimate and the broker being authorised by the FCA. Mr T disagreed, so the matter has been escalated to me to determine.

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 Mr T authorised the disputed payments he made to his crypto wallets from his Ulster account (where his funds were subsequently transferred on to the scammer). The payments were requested using his legitimate security credentials provided by Ulster, 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 Ulster should have done more to prevent Mr T 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.
- In this instance, it's not disputed that some of the payments Mr T made during the scam were considered unusual given they did trigger the bank's fraud prevention systems and were automatically blocked pending further enquiry, such as when he attempted to make payments of £5,000 and £10,000 on 24 January 2022. Accordingly, it's just a question of whether the bank went far enough in all the circumstances with its intervention.
- Having listened to the call Mr T had with Ulster, I accept that the bank could have arguably gone further in its questioning of Mr T. But even accepting this as the case, I'm not persuaded any such further questioning would've ultimately uncovered the scam or prevented the loss in any event.
- Mr T appears to have been fully convinced of the scam. He was satisfied that he was paying into a genuine investment as he believed that F was regulated by the FCA, and even thought he'd seen proof of this by way of its authorisation number. I appreciate this had been cloned from a genuine broker, but if Ulster had warned him of the risks of investment scams and asked him to check whether the broker was regulated by the FCA, he would've likely told it that he'd already done this and was satisfied he was dealing with a regulated investment broker.
- I can also see that Mr T was not entirely forthcoming with Ulster when it asked him questions about the nature of the payments he was making. He said that nobody had asked him to make the payments, for example, despite being in contact with a 'broker' who was instructing him to make the trades. He also didn't provide any information about the investment despite Ulster saying it wanted to check he wasn't falling victim to a scam; he just said he was 'storing crypto'. Mr T reassured the bank he was paying an account that he'd paid many times in the past. So, based on the interaction he had with Ulster, it doesn't seem he would've been willing to disclose all the details about what he was doing, even if he had been questioned further by the bank.
- Mr T was also unhappy when Ulster told him that it would no longer be allowing payments to certain crypto accounts due to the high risk of fraud. He said he should be able to purchase what he wants with his money and said he would consider moving accounts to a different bank that would allow him to purchase cryptocurrency. It therefore appears that Mr T would have likely found another way to make the payments even if Ulster continued to block them.
- So, overall, even if Ulster *could* have carried out further checks and asked more probing questions, I'm not persuaded this would have likely revealed that Mr T was falling for a scam. Therefore, I don't think its failure to look more closely into the payments can be considered the proximate cause of Mr T's loss in these circumstances, as it seems likely he would have always continued to make the payments, notwithstanding any warnings or further questioning by Ulster. As such, I don't consider it would be fair and reasonable to hold Ulster liable for failing to prevent the scam.
- I also don't think there was anything more Ulster could've done to recover the money Mr T lost. In terms of the debit card payments, a chargeback claim would've had little prospect of succeeding given Mr T received the asset he had purchased (i.e. the cryptocurrency). Similarly, for the faster payments, there would've been no prospect of recovering the money from the receiving accounts either, given we know these accounts were controlled by Mr T, who had already transferred the cryptocurrency on to the

scammer by the time the fraud had been reported.

- Ulster is also under no obligation to refund the faster payments to Mr T under the Contingent Reimbursement Model either, as the Code only covers scam transactions made to another person. In this instance, all of the faster payments were made to Mr T's own cryptocurrency wallets from his Ulster account before being transferred on to the scammer. He therefore cannot be said to have paid 'another person' from his Ulster account.

I appreciate this will likely come as a disappointment to Mr T, and I'm sorry to hear he has been the victim of such a cruel scam. However, I'm not persuaded that Ulster can fairly or reasonably be held liable for his loss in these circumstances.

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 Mr T to accept or reject my decision before 30 January 2024.

Jack Ferris
Ombudsman