

The complaint and what happened

Mr G and Mrs Y complain that The Royal Bank of Scotland Plc won't reimburse money they lost to an investment scam in March 2012⁹.

The details of this complaint are well known to both parties, so I won't repeat them in full again here. Rather, I'll set out the key points and focus on giving reasons for my decision:

- Mr G received a cold call offering an investment opportunity into bonds; an area Mr G already had experience of. Mr G received details of the bonds and asked about the company's FCA number; as he recalled the other business he dealt with had one. He was given a number which reassured him. As a result £100,000 was paid out to the 'bonds' in March 2019, in £20,000 increments. One of these payments was returned.
- Soon after, Mr G realised he'd been scammed, when he could no longer contact the scammer about his investment. He raised this with the bank who managed to recover just under £20,000 from the beneficiary bank.
- In 2022, Mr G and Mrs Y complained but the bank didn't uphold their complaint as it didn't think it had done anything wrong.
- Our investigator didn't uphold it either. They didn't find the payments were unusual or that Mr G and Mrs Y had been honest when asked questions about the payments when making them in branch. Their representative has asked for a decision as they consider the payments unusual – typical account spending was under £1,000 in any one go, and it felt better probing questions could have been asked.

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'm not upholding the complaint for broadly the same reasons as the investigator:

- There is no dispute the transactions were authorised. The starting position is therefore that Mr G and Mrs Y are liable. There is also no dispute this was a scam; the regulator posted a warning on its website at the end of March 2019 about this business.
- In accordance with regulations and good industry practice, a bank has a duty to protect customers against the risk of fraud and scams so far as is reasonable possible. If in breach of that, a bank fails to act on information which ought reasonably to alert a prudent banker to potential fraud or financial crime, it might be liable for losses incurred by its customer as a result.
- Having reviewed Mr G and Mrs Y's account statements, I'm not persuaded the payments ought to have looked out of character or suspicious to the bank. I accept the payments were large and were made in quick succession. But that isn't unusual for Mr G and Mrs Y. In March 2018 they made payments of £10,000 across two transactions in the space of a week. In May 2018, they made payments of £80,000 across four transactions also in the space of a week, and in July 2018, they made

payments of £25,000 across two transactions in three days. And these were generally preceded by a large lump sum being paid into the account just days prior.

- It would appear their representative reviewed an extremely limited account history when arguing the payments were unusual, despite it being aware that we will generally take into account 6-12 months of history. And given the transactions in dispute were of a similar size, velocity and were also preceded by a large lump sum into the account, I don't find the bank ought to have found them suspicious.
- I am aware the payments were made in branch. And the bank has provided evidence that some questions were asked about the payments. I accept Mr G and Mrs Y did explain the money was being paid into bonds. However, when asked whether they had been asked to make the payment by someone they hadn't met or were transferring funds for an investment opportunity they answered 'No' which wasn't correct – *they were* being asked to transfer for funds for an investment opportunity by someone they had never met. Had they answered this question more accurately, the bank might have been on notice that something untoward was happening.
- I'm also mindful that Mr G and Mrs Y had existing investment experience – having invested large sums into bonds before. And they told the bank the money that had been deposited into the account just days before was also from a bond. Given their clear investment experience, particularly in relation to bonds, and that was the intended purpose of the transfers, I don't find the bank ought to have done anything more. At most we might have expected the bank to ask Mr G and Mrs Y to do their own research; but this was something they were already aware of the need to do, having asked about FCA authorisation.
- I'm satisfied the bank took appropriate steps to recover the funds. Whilst it is disappointing it was only able to recover just under £20,000, I'm not persuaded it should have done anymore.

My final decision

For the reasons given, 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 G and Mrs Y to accept or reject my decision before 10 August 2023.

Claire Hopkins
Ombudsman