

The complaint

Mr S complains that Bank of Scotland plc trading as Halifax hasn't refunded him the money that he lost as part of a scam.

What happened

Mr S says that he made an account with an investment business that I will call A. They convinced Mr S that if he deposited funds with this business it would trade on his behalf and make him money. He therefore made a debit card payment to a third party.

When he was unable to get his money back. Mr S subsequently reported to Halifax that he'd been scammed and therefore he felt that his transactions should be refunded. Halifax declined to refund the transaction.

Mr S remaining unhappy, referred his complaint about Halifax to us. As our investigator (who didn't recommend that the complaint be upheld) couldn't resolve the matter informally, the case has been passed to me for 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.

Having done so, I've decided not to uphold this complaint for materially the same reasons as the investigator. I'll explain why.

Should Halifax have prevented the payment in the first place

I don't think Halifax could reasonably be expected to have prevented the payment Mr S says he lost to a scam. This is because at the time generally, banks were expected to process payments a customer authorised it to make. And under The Payment Services Regulations and terms and conditions of the account, Mr S is presumed liable for the loss in the first instance, in circumstances where he authorised the payment. That said, as a matter of good industry practice, Halifax should have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction.

In this instance the payment was for £515.91 with an additional £15.42 transaction fee. I don't think that this payment was sufficiently large or out of character for Halifax to have intervened or asked further questions about this payment prior to it being agreed.

Chargeback

After the payment was made, I wouldn't reasonably expect Halifax to have done anything further until Mr S notified it he'd been scammed. Then, because this was a debit card payment, the only recourse for potential recovery of the payment would be via the

chargeback scheme. Chargeback is a process by which disputes are resolved between card issuers (here, Halifax) and the merchant.

In this instance Halifax asked for information from Mr S to support his chargeback claim. Halifax says that this information was provided by Mr S to an incorrect e-mail address and by the time the information was received the timescales for the chargeback had been exceeded. Mr S says the information was provided to the e-mail address that he was provided with.

Regardless of the above though, I don't think a chargeback would have been successful. I say this because the payment was made to a third-party trading course provider whereas the claim that Mr S was making was that he was unable to withdraw his funds from A. The evidence that Mr S has provided seems to have been "proof" that he had funds with A and that he was not allowed to withdraw these funds, this does not demonstrate to me any reason as to why Halifax could pursue a chargeback against the company that Mr S actually paid. So, I find it unlikely based on the evidence provided by Mr S to Halifax, a successful claim could've been undertaken regardless of whether the evidence was or was not set to the Halifax's correct e-mail address.

Mr S seems to be under the impression that he is entitled automatically to a refund if he is scammed. I should explain that in his specific circumstances there is no such right. Ultimately Mr S authorised a payment from his debit card which Halifax had no real reason to stop and there was no way that I can see that Halifax could have recovered the funds for him. So, I can't ask Halifax to reimburse the lost funds.

My final decision

For the reasons set out above, I don't uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 4 May 2023.

Charlie Newton
Ombudsman