

The complaint

Mr L complains that Bank of Scotland plc (trading as “Halifax”) won’t refund over £6,000 he lost to an investment scam between October 2018 and April 2019.

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 Mr L authorised the disputed payments he made from his Halifax account. The transfers and debit card payments were requested using his legitimate security credentials provided by Halifax, 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 Halifax should have done more to prevent Mr L 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.
- I appreciate that overall, Mr L has lost over £6,000 which is a significant amount of money. But this amount wasn’t paid in one large or ‘out of character’ transaction. It was spread over five smaller increments across the space of six months. The largest transaction during this time was for £3,285 and, in my judgment, neither of the disputed payments would’ve appeared particularly unusual or out of character, such that they ought to have been regarded as suspicious or indicating a heightened risk of financial harm.
- I understand that Mr L thinks Halifax should’ve intervened as it would ‘ve seen a loan being paid into his account, which was then quickly paid out. But I don’t consider this would be enough to have triggered an intervention by Halifax in these circumstances, as it isn’t overly unusual for someone to quickly use the proceeds of a loan that have been paid into their account. I also can’t see that there were any active warnings published by the FCA or IOSCO about the merchants Mr L was paying either, so there would’ve been little cause for Halifax to be concerned about the payees as well.
- As a result, I’m not persuaded there was anything that ought reasonably to have triggered Halifax’s fraud monitoring systems, or that would have indicated Mr L was in the process of being scammed. So I don’t think Halifax can fairly or reasonably be held liable for his loss in these circumstances. Halifax are also under no obligation to consider refunding the faster payments under the Contingent Reimbursement Model (CRM Code)

either, as the payments were made prior to the date the Code came into force.

- I also don't think there was anything further Halifax could've done to recover the money Mr L lost after he reported the fraud either. He would've been out of time to raise a chargeback claim for the debit card payments, for example. And in terms of the faster payments there would've been little prospect of recovering these funds as well, given the fraud had been reported a few years after the transactions took place.

I appreciate this will likely come as a disappointment to Mr L, and I'm sorry to hear he has been the victim of a cruel scam. However, in the circumstances, I do not consider it would be fair and reasonable to hold Halifax liable for his loss.

My final decision

Your text here

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 31 May 2024.

Jack Ferris
Ombudsman