

The complaint

Mr S has complained Bank of Scotland plc, trading as Halifax, did nothing to intervene and stop a payment Mr S was making which turned out to be a scam.

What happened

In 2018 Mr S was looking to buy his first car. He researched different models and options and found something online he liked the look of. After checking, he was satisfied the seller was a genuine dealership (who I'll call A) and contacted them.

On 7 September 2018 Mr S paid A £4,350 for the car but never received it. He contacted A who were indeed genuine, but it wasn't them that had sold the car to Mr S. Mr S contacted Halifax, but they were unable to retrieve any of the money he'd lost.

In 2023 Mr S got in touch with a claims management company to help him get his £4,350 back. Halifax told him they didn't believe they'd done anything wrong and wouldn't refund him. Mr S, through his representatives, brought his complaint to the ombudsman service.

Our investigator explained why she wouldn't be asking Halifax to refund Mr S. The transaction wasn't covered by the Contingent Reimbursement Model code, nor had she seen any reason why Halifax should have intervened at the time Mr S made the payment.

Mr S's representatives felt there were reasons why Halifax should have taken action and identified this as an unusual payment. They've asked an ombudsman to consider Mr S's complaint.

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 reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

I don't dispute Mr S was scammed and lost a considerable amount of money. He has my sympathy about what he has gone through.

There's no dispute that Mr S made and authorised the payment. Mr S believed he was buying a car and has emphasised this was the first time he was carrying out such a high-value transaction so wasn't surprised by the information he was getting from A and what they were telling him to expect.

I'm satisfied the transaction was authorised under the Payment Services Regulations 2017

It's generally accepted that Halifax has an obligation to follow Mr S's instructions. So in the

first instance Mr S is presumed liable for his loss. But that's not the end of the story.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider that Halifax should:

- have been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions are generally more familiar with than the average customer.
- in some circumstances, irrespective of the payment channel used, have taken additional steps or made additional checks before processing a payment, or in some cases declined to make a payment altogether, to help protect its customers from the possibility of financial harm.

Mr S fell victim to a purchase scam. These unfortunately aren't particularly unusual and the individuals carrying these out work hard to disguise their tracks. I can also see that Mr S carried out research into A and who they were. Unfortunately the people he was actually dealing with were just pretending to be A.

Firstly Mr S's representatives will be well aware that his claim doesn't fall under the CRM code. This code didn't start until May 2019 and doesn't apply retrospectively.

I have considered whether Halifax should have intervened and asked Mr S what he was doing. It's accepted by all parties that they didn't. But having reviewed the facts around this payment, I don't think I'd have expected them to do so.

I say this because:

- Whilst Mr S had no history of such a large value payment, I'm not sure the value in itself should have rung alarm bells. I can also see the payment was properly made and authenticated.
- It's usual for individuals to make one-off seemingly genuine payments and I wouldn't expect banks to raise concerns for all of these. In this case Mr S had transferred money in from a savings account and his current account was left with substantial funds remaining after the payment.
- The payment was a single payment so there was no chance for a chain of unusual payments to have alerted Halifax.

I'm not satisfied there's any reason why Halifax should have intervened despite my consideration of the points raised by Mr S's representatives.

I've also looked at the action Halifax took after Mr S told them he'd been scammed. This was weeks after the original payment so unfortunately it's not surprising that there were no funds left for them to recoup. I don't believe this is Halifax's fault.

Overall I'm not going to ask Halifax to do anything further.

My final decision

For the reasons given, my final decision is not to uphold Mr S's complaint against Bank of Scotland plc, trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 7 March 2024.

Sandra Quinn
Ombudsman