

The complaint

Mr M complains that Bank of Scotland plc, trading as Halifax, won't refund the money he lost when he was the victim of a scam.

What happened

In May 2023, Mr M was added to an instant messaging group chat about cryptocurrency investment. He was interested in earning some additional income, so asked the group for advice and was told to contact one of the group chat's administrators who would act as his broker.

The broker told him to set up an account with a cryptocurrency exchange, and then guided him through purchasing cryptocurrency and using it to fund his investment. And Mr M made a number of payments from his Halifax account to purchase cryptocurrency, which he then sent on to wallet details the broker gave him. He then also sent some money from his Halifax account to an account he held with another financial institution, before purchasing cryptocurrency from there.

I've set out the payments Mr M made to purchase cryptocurrency from his Halifax account below:

Date	Details	Amount
3 July 2023	To 1 st cryptocurrency exchange	£1,000
5 July 2023	To 1 st cryptocurrency exchange	£500
6 July 2023	To 1 st cryptocurrency exchange	£2,000

Unfortunately, we now know the investment was a scam. The scam was uncovered after Mr M was told he needed to make a number of additional payments in order to withdraw the profits the platform showed he had made. Mr M then became sceptical and tried to contact other people in the group chat. And, when he couldn't contact anyone and the broker stopped responding to him, he realised he had been the victim of a scam.

Halifax investigated but said Mr M had authorised the payments and it didn't think it could have done more to protect him. It offered to pay him £40 as compensation for not initially fully explaining its decision, but didn't agree to refund the money he had lost. Mr M wasn't satisfied with Halifax's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think anything we would reasonably have expected Halifax to have done would have uncovered the scam or stopped Mr M losing the money he did. So they didn't think Halifax should have to refund the payments Mr M made. Mr M disagreed with our investigator, so the complaint has been passed to me.

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.

Banks are expected to make payments in line with their customers' instructions. And Mr M accepts he made the payments here. So while I recognise he didn't intend for the money to ultimately go to scammers, he did authorise the payments. And so the starting position in law is that Halifax was obliged to follow his instructions and make the payments. So Mr M isn't automatically entitled to a refund.

The regulatory landscape, along with good industry practice, sets out requirements for banks to protect their customers from fraud and financial harm. So, in line with this, I think Monzo should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- 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 (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which account providers 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 customers from the possibility of financial harm from fraud.

But, even if Halifax had identified that Mr M was at heightened risk of financial harm from fraud when making some of these payments, I don't think the action I would have expected it to take would have prevented his loss. I'll explain why below.

Halifax blocked a payment Mr M tried to make to an account he held with another bank after these three payments and spoke to him about why he was trying to make that payment. But despite appearing to intend to send the money to the scam investment from his other account, Mr M told Halifax it was for some building work he was having done on his house. He said not much of the work had been done so far, and he was just organising his money.

Halifax then gave Mr M a series of warnings, including that scammers may say they have some kind of investment or money-making scheme you can take part in and may tell him what to say to his bank or to not discuss certain things. But Mr M replies that no-one has done that here and that he wants to continue with the payment.

From what I've seen of his communication with the broker, Mr M also appears to have been telling the broker what was happening at every step of the process and then following their instructions on what to do or say. When a payment is stopped, he tells the broker who then tells him to call his bank to lift the restrictions on his account. And when a cryptocurrency exchange asks him questions about a transaction, he sends the broker a screenshot of what he is asked and then follows their instructions on how to answer.

So even if Halifax had intervened and made additional checks before allowing the earlier payments to the cryptocurrency exchange to go through here, I think Mr M would likely not have given it accurate or complete information about the purpose of the payments or the circumstances surrounding them – as happened with the questions he was asked for the later payment. And so I don't think Halifax would have had significant concerns following its questions and I don't think any warning I would have expected it to show following those questions would have stopped Mr M from making the payments or losing the money he did.

We also expect firms to take reasonable steps to try to recover any money their customers have lost as a result of a scam, including making use of any available chargeback scheme. But a chargeback can only be made against the company the card payment was made to, which in this case is the cryptocurrency exchange Mr M purchased the cryptocurrency from. And I haven't seen anything to suggest the cryptocurrency exchange did anything wrong or did anything other than just process the cryptocurrency transactions as they were instructed to. So I don't think any chargeback claim against the cryptocurrency exchange would be successful, and so Halifax has acted reasonably in not carrying one out.

Halifax has offered to pay Mr M £40 as an apology for not giving a clearer explanation of why it couldn't raise a scam claim for him sooner. And, from what I've seen, I think this is fair and reasonable compensation for the distress and inconvenience this poor customer service caused Mr M. So I won't be asking Halifax to pay anything further.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 November 2024.

Alan Millward
Ombudsman