

The complaint

Mr A is unhappy that Bank of Scotland plc trading as Halifax decided not to refund him after he was the victim of an authorised push payment scam.

What happened

Mr A attempted to purchase a vehicle online. He contacted the seller and the purchase was agreed, having seen pictures of the vehicle and ID from the seller.

Mr A understood payment was going to the transport company. On receipt of the vehicle the funds would be passed to the seller. The seller provided a tracking number. When the vehicle didn't arrive Mr A realised he'd been scammed.

The bank notes say that Mr A was told the vehicle had been shipped but then damaged during transit. Mr A asked for the contact details of the shipping company but received no response and didn't receive any further contact from the seller.

Halifax considered the matter and concluded the payment wasn't unusual and so it had no reason to stop the payment. It said it wouldn't be refunding Mr A.

Unhappy with this outcome Mr A brought his complaint to our service, using a representative which I'll refer to as S.

One of our investigators looked into things. She concluded Halifax should refund Mr A for 50% of his losses, half of the fee incurred on the payment, and pay 8% interest on the refund amount from the date of the payment to the date of settlement. She said:

- The CRM code didn't apply in this instance.
- Considering other good industry practice in place at the time, Halifax ought to have discussed the payment with Mr A. She said the payment was highly out of character considering Mr A's previous account activity – which in the year previous was only used for cash withdrawals, debit card payments and to pay direct debits.
- Here the payment was large and to a newly set up international payee, funded by a cash deposit into his account. All of this indicated Mr A could be at risk of financial harm.
- She thought Halifax could have intervened and asked Mr A questions. If it had the scam would have likely been exposed. Mr A wasn't given a cover story so would have likely said he was purchasing a vehicle overseas, which he hadn't seen and had been offered a full refund guarantee on receipt of the goods via courier arranged by the seller – all of which wasn't plausible.
- And although Mr A spoke to the seller and received a copy of his ID, he wasn't provided with the vehicle registration details to confirm the seller owned the car. She thought this was especially important given he hadn't physically seen the vehicle and it was being sold from overseas
- Halifax contacted the international bank after Mr A reported the scam, but no funds

remained.

Halifax responded to say it accepted the investigators recommendations.

S responded to say it wasn't fair and reasonable to consider Mr A's lack of due diligence here. The investigator explained that contributory negligence would always be a consideration in a complaint like this. She confirmed Halifax had agreed to her recommendations as well. S confirmed Mr A didn't accept the recommendations and wanted an ombudsman to review the complaint.

As the matter couldn't be resolved its 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.

Having done so, I've come to the same conclusions as the investigator for largely the same reasons. I'll explain why.

As the bank has agreed to refund 50% of the payment I haven't considered this element of the claim any further. What remains in dispute is whether there should be a deduction to the refund.

In considering this point, I've taken into account what the law says about contributory negligence as well as what's fair and reasonable in the circumstances of this complaint. I recognise that, as a layman, there were aspects to the scam that would have appeared convincing. Mr A says he spoke to the seller over the phone and was reassured by what he was told. He also received a copy of the sellers ID. And the price, as far as I can tell, doesn't seem too good to be true. And he received a contract for the sale of goods.

So, I've taken that into account when deciding whether it would be fair for the reimbursement due to Mr A to be reduced. But I think it should be.

I'm not aware that Mr A carried out any checks on the vehicle that was being sold or whether the seller was the legal owner of the vehicle and entitled to sell it. The contract Mr A received from the seller says he should:

- Check all the details of the vehicle registration documents.
- In the case if an EU import vehicle request the EU Certificate of Conformity
- Request the presentation of written authorisation to sell and the identification of the person acting on behalf of the vehicle owner's behalf if the owner is not available in person to handle the sale

It goes on to state vehicle registration should take place without delay listing all the documents that will likely be needed, none of which Mr A has provided evidence of obtaining.

The seller also promised a refund if on inspection of the goods, Mr A was unhappy. Again, I can't see that Mr A looked into this offer of a money back guarantee or considered if that element was too good to be true.

The seller explained that he would be paying the transportation company and it would release the funds to him after two days or when Mr A confirmed he was happy with the vehicle. As far I can tell Mr A took no steps to verify any of this. Mr A hasn't commented on

whether he thought this was standard practice when buying a vehicle in this way. I can't see that he did any checks to see if the shipping company existed or what would happen and who would incur the cost of return shipping, if he rejected the goods.

I think that he should have made further enquiries about the vehicle itself and the shipping agreement that would have likely led him to realise that the offer wasn't genuine. Mr A doesn't appear to have made any enquiries. If he had done so it would have likely been apparent that the seller wasn't offering a genuine sale.

Taking all of the above into account I think that Halifax can fairly reduce the amount it pays to Mr A because of his role in what happened. Weighing the fault that I've found on both sides, I think a fair deduction is 50%.

Putting things right

I direct Bank of Scotland plc trading as Halifax to pay the compensation as agreed:.

- Refund Mr A for 50% of his losses which totals £6,768.75
- Refund 50% of the international payment fee which totals £6.77
- Pay 8% simple interest from the date of the payment to the date of settlement

.My final decision

I direct Bank of Scotland to settle the complaint as set out above and as it agreed to do so following the investigators findings.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 23 July 2024.

Sophia Smith
Ombudsman