

The complaint

Mr K complains that Bank of Scotland plc (trading as Halifax) won't refund money he lost as a result of an investment scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. The facts are not in dispute, so I'll 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.

- In broad terms, the starting position is that Halifax is expected to process payments Mr K authorises it to make, in accordance with the Payment Services Regulations 2017. While Mr K was a victim of a cruel scam, it's accepted he authorised the payments. That means he's presumed liable for the losses in the first instance.
- However, there are circumstances when it might be appropriate for Halifax to take additional steps before processing a payment. Such as when there are grounds to suspect the payment presents a fraud risk. That might occur when a payment is significantly unusual or uncharacteristic compared to the normal use of the account.
- Looking at Mr K's account history, I'm not persuaded these payments appeared so uncharacteristic that Halifax ought to have suspected he was falling victim to a scam. There were over the course of several weeks; they weren't particularly significant in value; and Mr K had previously made similarly sized payments.
- I appreciate the distinction Mr K's representatives have drawn that these were to a cryptocurrency exchange. And I acknowledge that, at the time these payments were made, Halifax ought to have recognised payments of this nature carried an elevated risk of fraud. But that doesn't mean it would have been proportionate to take additional steps with every identifiable cryptocurrency payment. Instead, it's one of the factors I'd expect Halifax to consider when balancing its need to protect Mr K from financial harm and its mandate to make the payments he tells it to promptly.
- Here, given the frequency and value of the payments and how they were broadly in keeping with Mr K's spending, I don't think the risk from cryptocurrency is enough to say the payments looked *significantly* uncharacteristic or risky.
- It follows that I don't consider it remiss that Halifax processed the payments in line with the instructions without completing further checks.
- I do appreciate how disappointing this will be for Mr K, who has clearly fallen victim to a horrible scam. But for the reasons I've explained, I don't think his losses can be attributed to something Halifax did wrong. So I don't uphold his complaint.

My final decision

For the reasons I've explained, I don't uphold the complaint.

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

Emma Szkolar
Ombudsman