

The complaint

Mr R has complained that Bank of Scotland plc (trading as Halifax) won't refund the money he lost after falling victim to a scam.

What happened

Mr R was falsely sold a cryptocurrency investment opportunity. Over the course of several days, he sent around £1,300 to his crypto wallet, then sent his crypto to the investment platform. But they wouldn't let him withdraw his funds, so Mr R realised it was a scam.

Halifax said that while they were sorry to hear what happened, they didn't think they were liable for Mr R's loss.

Our investigator looked into things independently and didn't uphold the complaint. They explained that the payments were not unusual enough for Halifax to intervene or warn Mr R, they went to his own wallet so Halifax couldn't recover them, and the matter wasn't covered by the CRM code.

Mr R said Halifax should've done more to warn or protect him, and pointed out that we've upheld other cases. He asked for an ombudsman to look at his case afresh, so the complaint's been passed to me to decide.

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.

I understand that Mr R fell victim to a scam, and so he has my sympathy. I appreciate this can't have been an easy time for him, and I appreciate why he feels that his money should be returned. It's worth keeping in mind that it's the scammer who's primarily responsible for what happened, and who really owes Mr R his money back. But I can only look at what Halifax are responsible for. Having carefully considered everything that both sides have said and provided, I can't fairly hold Halifax liable for Mr R's loss. I'll explain why.

It's not in dispute that Mr R authorised the payments involved. So although he didn't intend for the money to go to a scammer, under the Payment Services Regulations he is liable for the loss in the first instance. And broadly speaking, Halifax had an obligation to follow his instructions – the starting position in law is that banks are expected to process payments which a customer authorises them to make.

Halifax should have been on the lookout for payments which could be the result of fraud or scams, to help prevent them. But a balance must be struck between identifying and responding to potentially fraudulent payments, and ensuring there's minimal disruption to legitimate payments. I've thought carefully about whether Halifax should have done more in Mr R's case.

While of course this will have been a substantial sum for Mr R to lose, the payments were not so large or rapid that I'd have expected them to be of concern to Halifax. Indeed, they were substantially smaller than many of the other payments Mr R made in the months before the scam. So they were not particularly unusual or out of character for this account. And while they did go to a crypto platform, it was a wallet in Mr R's own name, via payments he genuinely authorised himself. So I don't think Halifax were required to intervene here and investigate or warn Mr R further about scams. And as Mr R made the payments without speaking to anyone in Halifax directly, Halifax didn't miss any particular opportunity to ask further questions or identify the fraud from anything he said.

Next, I've considered what Halifax did to try to recover Mr R's money after he told Halifax about the scam. But unfortunately, as the payments went to Mr R's own crypto wallet and then were all spent, there was nothing more Halifax could do here. And this matter was not covered by the CRM code.

Lastly, I appreciate Mr R's point that we've upheld other cases. But different cases have different circumstances – so we look at each case on its own merits. I've explained above why I can't hold Halifax responsible for things in this particular complaint.

So while I'm very sorry to hear about what happened to Mr R, I don't think Halifax should be held responsible for his loss. And so I can't fairly tell Halifax to refund Mr R's money in this case.

My final decision

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

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

Adam Charles
Ombudsman