

The complaint

Mrs B complains Bank of Scotland plc trading as Halifax won't reimburse money she lost when she fell victim to an investment scam.

What happened

In 2022 Mrs B lost over £170,000 to a crypto investment scam. She was tricked into believing she was investing in crypto through a legitimate broker she had found online. Under the instruction of the scammer, Mrs B made a series of Faster Payments from her Halifax account to various crypto exchanges. From there she transferred the crypto to a trading account the scammer helped her set up. Mrs B realised she'd been scammed when the scammer stopped responding to her messages and requests to withdraw her profits. She said she also saw the balance in her trading account disintegrate.

Halifax refused to reimburse Mrs B's losses. So, she referred a complaint to the Financial Ombudsman with the support of a professional representative (who I'll refer to as "C"). Our investigator didn't uphold the complaint, as he was satisfied that Halifax had made reasonable attempts to warn Mrs B of the risks associated with her payments, but she chose to proceed regardless of the risks highlighted to her. The investigator was not persuaded that any further reasonable intervention from Halifax would have prevented Mrs B making the payments, and suffering the loss she unfortunately did.

C asked for the matter to be referred to an Ombudsman for a final decision. It said Halifax ought to have recognised that Mrs B's uncooperative behaviour during her calls with Halifax was a sign she was falling victim to a scam and was subject to coercion and pressure from scammers. It argued that Halifax should have invoked the Banking Protocol and asked the police to intervene. Had it done so, the scam would have been uncovered and Mrs B's losses prevented.

The complaint has now 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.

Having done so, I have reached the same conclusion as our Investigator. And for largely the same reasons. I realise this decision will come as a disappointment to Mrs B.

There is no doubt that Mrs B has been victim of a sophisticated scam and has lost a significant sum of money due to the deception of scammers. I do not underestimate the impact this has had on her. But in reaching a decision I must consider whether Halifax is responsible for the loss she's suffered. And I don't think it is. So, I don't think Halifax has acted unfairly by not refunding the payments. I'll explain why.

I should explain from the outset that I have summarised this complaint in far less detail than the parties involved. No discourtesy is intended by this. I have concentrated my comments

on what I think is relevant to the outcome of this complaint. If I don't mention a specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

It isn't in dispute that Mrs B authorised the transactions in question. So, while she didn't intend the money to fall into the hands of scammers, she is presumed liable for the loss in the first instance, in line with Payment Services Regulations 2017 (PSRs). And under the terms and conditions of the account, where a valid payment instruction has been received, Halifax's obligation is to follow the instructions Mrs B provides.

However, Halifax is aware, taking longstanding regulatory expectations and requirements into account, and what I consider to be good industry practice at the time, that it should have been on the look-out for the possibility of fraud and made additional checks before processing payments in some circumstances.

It is evident that Halifax did in fact recognise that Mrs B was at risk of financial harm from fraud. It intervened on six occasions when Mrs B instructed payments. On each occasion Mrs B was invited to contact Halifax to discuss her payment and she was provided with scam warnings.

The conversations were detailed and sought to understand what had prompted Mrs B to make the payments. They also sought to identify potential red flags that she may be victim of a scam – for example, she was asked how she found out about the opportunity and whether it was via social media or an online advert; whether she had set up accounts herself; whether she was being guided by a broker, agent or teacher; and whether she had downloaded any remote access software.

It is evident from listening to the calls that Mrs B was unhappy about the intervention from Halifax from the outset. She viewed the conversations as an unnecessary intrusion into her personal financial freedoms. She also expressed her dislike of banks and banking systems. Consequently, Mrs B did not engage openly and honestly with Halifax's advisers. She did not answer questions accurately, for example misrepresenting how long she had been trading for; denying that she was being supported by a trader/ broker; and denying the use of remote access software. As a result, while Halifax was concerned about the value and destination of her payments, it was not able to specifically identify other key features that would have highlighted the likelihood Mrs B was falling victim to a crypto investment scam.

Nevertheless, Halifax's advisers did warn Mrs B about the risks around crypto investment scams. They explained how scams were often perpetrated; highlighting how they were often advertised online, a scammer may help to set up a trading account, and that money would then be lost from the trading account. The advisers also explained that scammers often tell people that banks will try to stop investments in crypto, as a way to stop people engaging with banks' warnings.

Despite these numerous interventions and warnings from Halifax, Mrs B decided to proceed with her payments.

C has suggested Halifax's intervention didn't go far enough and it should have invoked the Banking Protocol. But I disagree.

As highlighted above, Mrs B chose to give inaccurate answers to many of the questions she was asked. Consequently, Halifax did not know the true circumstances of what was happening. For example, Halifax did not know about the existence of the broker or the fact that Mrs B had downloaded remote access software to allow someone else to set up her accounts. As such, while it was right to have concerns about the payments, I do not agree

that Halifax ought to have known – or had enough reason to highly suspect - that Mrs B was, in fact, falling victim to a scam. But rather, they were reassured by the answers Mrs B provided – that being she was investing independently without any third-party involvement and had done so for some time. As such, all Halifax could do was warn Mrs B about the risks associated with her payments. It was ultimately up to Mrs B to decide if she wanted to heed the warnings and make further checks or take further precautions, or whether to proceed with the payments. Mrs B chose the latter.

In any event, I'm not persuaded that even if Halifax had gone further than it did, and required Mrs B to attend a bank branch, or if it had invoked the Banking Protocol, it would have prevented Mrs B's loss.

Mrs B made it clear in her conversations with Halifax that she was not prepared to attend a bank branch, which had been suggested when she initially refused to engage with Halifax's questions. Mrs B responded angrily to the suggestion that she would be required to do so, and suggested she would likely complain and take her business elsewhere.

As such, even if Halifax had taken further steps to intervene in Mrs B's payments, I think it's most likely she would have ignored these interventions, as she had done on numerous other occasions. Even if Halifax had imposed further friction or restrictions in her payments, I think it's most likely Mrs B would have simply transferred her funds to an account that would have enabled her to carry out her transactions, without what she perceived as unwanted and unwarranted interference.

In conclusion, I have a great deal of sympathy with Mrs B being the victim of what was clearly a cruel scam. But it would only be fair for me to direct Halifax to refund her losses if I thought it was responsible – and I'm not persuaded that this was the case. Everything considered, I cannot fairly and reasonably hold Halifax liable in these circumstances. It follows that I will not be asking it to take any further action.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 24 April 2025.

Lisa De Noronha
Ombudsman