

## **The complaint**

Mr T 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 T was using a genuine trading advice site, and was approached by scammers. They persuaded Mr T to send them over £16,000 over the course of about a week. Mr T took out a personal loan with a different bank and paid that into a different account to this one. He transferred funds to this account and also borrowed from a friend, then made card payments to a genuine trading platform and sent the money onto the scammers.

Halifax had intervened during this and questioned Mr T about his payments. He told Halifax the funds came from his brother for an investment they were making together, he'd used the company before, and no one had asked him to make these payments. Halifax sent Mr T information about scams and let the payments through.

Mr T was later told that his trading account had been emptied and his balance was lost. He realised he'd been scammed.

Mr T reported the scam to Halifax. Halifax explained they were unable to recover the funds, and they didn't think they were liable for Mr T's loss.

Our Investigator looked into things independently and didn't uphold the complaint. Mr T's representatives asked for a final decision, 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 T fell victim to a sophisticated scam, for which he has my sympathy. I appreciate this can't have been an easy time for him, and I appreciate why he wants his money to be returned. It's worth keeping in mind that it's the scammers who are primarily responsible for what happened, and who really owe Mr T 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 T's loss. I'll explain why.

It's not in dispute that Mr T authorised the payments involved. So although he didn't intend for the money to end up with scammers, 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. Both parties accept that the larger payments involved here were sufficiently out of character that Halifax should've intervened – and indeed, they did intervene. I've thought carefully about the intervention involved.

I agree that Halifax could've handled the intervention better in this case, such as by using more open questions. Though, of course, I would not have expected them to interrogate Mr T. The question, then, is whether appropriate proportionate intervention was most likely to have prevented the loss here.

However, I'm afraid I do need to point out that Mr T's answers to Halifax were misleading, and this substantively impeded their ability to help him. For example, when asked about the money which had just come in to fund the payments, Mr T said it was from his brother, when the money had actually come from a loan on his other account and a friend. When asked if he'd used the company before he said it was a regular company of his, when he'd only started using them a few days ago. He repeatedly confirmed no one had asked him to make the payments, when he was making them on the scammers' instructions. And he'd lied to his loan provider about his reason for taking out the loan.

Halifax also texted Mr T a direct link to their information about fraud and scams, and repeatedly asked Mr T to read this before trying more payments. Mr T acknowledged these requests. And Halifax's information set out details about this type of investment scam which were relevant to Mr T's situation. But Mr T went ahead anyway.

I should also point out that the merchant Mr T was paying was a genuine, regulated financial services company. So that would've looked broadly legitimate to Halifax, who didn't know he was using that company to send funds to scammers. And I can't see that Mr T told Halifax anything which should've given them cause for concern. His representatives pointed out he'd said that the company had asked him to get in touch with Halifax about the payments not going through. But that's normal – if your bank declines a payment to any genuine merchant, the merchant will usually refer you to your bank to discuss it. Merchants can't unblock your bank account themselves.

I do acknowledge that Halifax could've done better here, and that this case is finely balanced. But given that Mr T was not honest with Halifax and his loan provider, given he did not heed relevant warnings, and given that Halifax had not yet been given sufficient cause to block further payments outright, I think it's too speculative for me to conclude that further intervention would've stopped the loss. Mr T appears to have been fairly determined to make these payments, going as far as to take out a loan on false pretences and to mislead his bank without the scammers even asking him to lie. I don't think I can reasonably assume that he would've changed tack had he been asked more open questions or warned even further. I think it's more likely that Mr T would've still gone ahead at the time.

Next, I've considered what Halifax did to try to recover Mr T's money after he told Halifax about the scam. Unfortunately, as these were card payments, it wasn't possible to reverse them and they were not covered by the CRM Code for scams. And there was no chargeback reason which would've been appropriate here or had a realistic prospect of success. So there wasn't anything more that Halifax could reasonably do to get the money back.

So while I'm very sorry to hear about what the scammers did to Mr T, I don't think Halifax can fairly be held responsible for his loss. And so I can't fairly tell Halifax to refund Mr T'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 T to accept or reject my decision before 24 February 2025.

Adam Charles  
**Ombudsman**