

## The complaint

Mr O complains that Bank of Scotland plc trading as Halifax (Halifax) is refusing to refund him the amount he lost as the result of a scam.

Mr O is being represented by a third party. To keep things simple, I will refer to Mr O throughout my decision.

## What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mr O received a job offer Via WhatsApp for a company called PhDLabs (X) which involved marketing mobile apps by completing online tasks. Mr O was required to make deposits in cryptocurrency to unlock tasks related to the role. But when Mr O attempted to make withdrawals, X convinced him to make further payments.

Mr O realised he had fallen victim to a scam when X continued to request payments for tasks he had not received.

Mr O made the following payments in relation to the scam:

Date	Payee	Payment Method	Amount
6 June 2023	Binance	Debit card	£33.00
9 June 2023	Binance	Debit card	£290.86
10 June 2023	Binance	Debit card	£80.00
10 June 2023	Binance	Debit card	£100.00
11 June 2023	Binance	Debit card	£700.00
11 June 2023	Binance	Debit card	£1,000.00
11 June 2023	Binance	Debit card	£2,102.00
12 June 2023	Binance	Debit card	£3,350.00
12 June 2023	Binance	Debit card	£50.00
12 June 2023	Binance	Debit card	£57.00
12 June 2023	Binance	Debit card	£15.00
12 June 2023	UAB Eurlita (KuCoin)	Transfer	£2,500.00
13 June 2023	UAB Eurlita (KuCoin)	Transfer	£2,500.00
13 June 2023	UAB Eurlita (KuCoin)	Transfer	£4,600.00

Our Investigator considered this complaint and didn't think it should be upheld. Mr O disagreed, so this complaint has 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.

It has not been disputed that Mr O has fallen victim to a cruel scam. The evidence provided by both Mr O and Halifax sets out what happened. What is in dispute is whether Halifax

should refund the money Mr O lost due to the scam.

### *Recovering the payments Mr O made*

Mr O made payments into the scam via his debit card and transfer. When payments are made by card the only recovery option Halifax has is to request a chargeback.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Mr O was dealing with X, which was the business that instigated the scam. But Mr O didn't make the debit card payments to X directly, he paid separate cryptocurrency exchanges. This is important because Halifax would only have been able to process chargeback claims against the merchant he paid, not another party (such as X).

The service provided by the cryptocurrency exchanges would have been to convert or facilitate conversion of Mr O's payments into cryptocurrency. Therefore, they provided the service that was requested; that being the purchase of the cryptocurrency.

The fact that the cryptocurrency was later transferred elsewhere – to the scammer – doesn't give rise to a valid chargeback claim against the merchants Mr O paid.

When a payment is made by transfer Halifax could contact the operator of the payee's account and request a refund of any remaining funds. But if any funds were not passed on to the scammer, they would remain in Mr O's control anyway.

With the above in mind, I don't think Halifax had any reasonable options available to it to recover the payments Mr O made.

### *Should Halifax have reasonably prevented the payments Mr O made?*

It has been accepted that Mr O authorised the payments that were made from his account with Halifax, albeit on X's instruction. So, the starting point here is that Mr O is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Halifax should have been aware of the scam and intervened when Mr O made the payments. And if it had intervened, would it have been able to prevent the scam taking place.

The payments Mr O made in relation to the scam were sent to legitimate businesses and initially were not of such high values that I would have expected the payments to trigger Halifax's fraud prevention systems prompting it to intervene. However, some of the later payments were of a higher value and I think it would have been reasonable for Halifax to have had concerns and intervened.

Halifax has explained that after the last debit card payment it stopped several attempts to make higher value payments that were attempted using Mr O's debit card. Mr O then started to make payments by transfer to KuCoin instead.

After making the first payment to KuCoin Halifax started to stop further payments and a conversation between Mr O and Halifax took place on 13 June 2023. I have listened to a recording of this call.

During this call Mr O said he is doing something with a friend in Canada and that using the cryptocurrency exchange was the cheapest way of him transferring funds. He confirmed the payments were being made in relation to an investment he was making with his friend that included buying and selling things. Mr O confirmed he had known his friend from childhood and even lived together.

The information provided by Mr O was not correct as he ended up making the payments into the scam and at the time would have thought he was making payments related to his new job role.

Mr O tells us he did initially plan to make the payment as described in the call but later decided to make the payments into the scam. Even if this was the case, with the information Mr O provided to Halifax at the time he made the payment it would have been very difficult for Halifax to uncover a scam taking place with completely different circumstances to that Mr O described.

With the above in mind, I don't think Halifax missed an opportunity to uncover the scam, and it is not responsible for his loss.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 19 July 2024.

Terry Woodham  
**Ombudsman**