

The complaint

Mr S has complained Bank of Scotland plc, trading as Halifax, did nothing to stop payments he made which turned out to be part of an employment scam.

What happened

In 2023 Mr S, after becoming unemployed, became aware of potential job opportunities through social media and got in touch with the company (who I'll call M). They communicated with him through WhatsApp and told him he needed to review hotels and complete other tasks and would earn money to do so.

To assist him in making initial payments which he was required to do, Mr S set up an account with another bank (who I'll call R) and he funded some payments from his Halifax account. Mr S received an initial small payment and started to do what he believed would bring him some income. Over a period of a week Mr S ended up sending five payments to the same company – which operates as a crypto-related wallet and the amounts also started to rise significantly. He sent £7,715.58.

Mr S realised he was involved in a scam when he was unable to withdraw any funds himself and was continually asked to provide more funds which he didn't have. He contacted Halifax as they'd not intervened during these payments and asked to be refunded his losses.

Halifax confirmed they wouldn't refund Mr S. They felt he should have realised this was a job scam from the nature of the work being offered and that there was something inherently dodgy in being asked to review hotels he'd not stayed in.

Mr S brought his complaint to the ombudsman service.

Halifax provided no evidence throughout the investigation of Mr S's complaint. Our investigator confirmed he was going to ask Halifax to refund half of Mr S's losses from the last two payments Mr S had made as he felt Halifax should have intervened.

Mr S accepted this outcome. No proper response was provided by Halifax. This complaint has been referred to an ombudsman for 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.

Having done so, I've reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

Mr S was scammed. This has had an impact on his finances and his mental health. He has my sympathy about what he has gone through.

There's no dispute that Mr S made and authorised the five payments totalling £7,715.58 from Halifax to one new payee which Mr S set up.

I'm satisfied the disputed transactions were authorised under the Payment Services Regulations 2017

Our starting point is that banks and electronic money institutions are required to follow their customer's instructions. But, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in 2023 that Halifax should:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;
- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment;
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

I've reviewed these payments and although Halifax has provided no evidence, I do have a copy of their final response laying out their position. These payments started on 13 July with one for £548.05. This followed a payment Mr S had made into his account with R of the same amount and then transferring that money back into his Halifax account.

Halifax has stated that at the time of this first payment, they provided Mr S with a generic scam warning. This stated:

*"[Mr S], pay by card
It's a safe way to pay*

*If you can't pay by card, it's often a scam
Find out how to stay safe from scams on our Fraud Hub"*

I'm not convinced this message would have seemed to have any relevance to Mr S, nor do I believe that it would necessarily strike him as true. There's no evidence that any other warning was issued or that Halifax tried to call Mr S to find out the nature of these payments. If they had spoken to Mr S, which I would have expected as the frequency and amounts of the payments both increased substantially, I'm confident they'd have realised this was a well-known but invidious employment scam and been able to stop Mr S from making any further payments.

I'd have expected to see this intervention before the fourth payment for £2,341 on 14 July 2023 was made. This followed two other payments made the same day which should have alerted Halifax.

I've also considered, as did our investigator, whether Mr S's actions contributed to what happened. I appreciate the fraudsters who carry out these scams copy genuine websites and masquerade as real employers, and these can seem genuine to an unsuspecting individual. I can see that Mr S has told us he carried out his own investigation into M and was satisfied it was genuine. I find this surprising since the first company supposedly to have contacted him was a law firm and I've seen warnings that are available online which relate to job scams.

I've also reviewed the many pages of messages between Mr S and the scammers. The nature of the work Mr S was being asked to complete was in itself suspicious. He was being asked to review hotels – which he admits he recognised – whilst knowing he'd not stayed in them. I have to agree with Halifax that this in itself sounds dodgy.

I am satisfied that Mr S's actions contributed so I will only be asking Halifax to refund half of Mr S's losses from the last two payments.

Mr S has accepted this because I can see he agreed to the outcome our investigator proposed.

Putting things right

Halifax need to refund £2,420.50 along with 8% simple interest from 14 and 20 July 2023.

My final decision

For the reasons given, my final decision is to instruct Bank of Scotland plc, trading as Halifax, to:

- refund £2,420.50 to Mr S; and
- add 8% simple interest a year from the dates of debit to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 December 2024.

Sandra Quinn
Ombudsman