

The complaint

Mr T has complained that Bank of Scotland plc (trading as Halifax) won't refund the money he says he lost in an alleged scam.

What happened

Both sides are most familiar with the case, so I'll summarise things more briefly.

Mr T's representatives explained that he paid into a cryptocurrency investment scheme. It was recommended by a trusted friend who'd been in it for months and had successfully withdrawn substantial profits.

Between September and November 2023, Mr T paid around £8,800 from his Halifax account to his cryptocurrency wallet by card, and received about £1,600 back. His representatives say he sent crypto onto the investment scheme, and was able to withdraw his profits at first, then later he couldn't and the servers went down. They say Mr T did not save any of his correspondence with the alleged scammers.

In 2024, Mr T complained about this to Halifax. Halifax didn't think they were liable for the alleged 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.

It's not clear whether Mr T fell victim to a scam here. There is a high legal threshold or burden of proof to conclude that someone was intentionally trying to commit fraud; as opposed to – for example – running a high-risk scheme or managing a scheme poorly. And while I do appreciate the representatives' concerns, I've not been given much evidence about this scheme, so I don't have much to substantiate whether the scheme set out to defraud investors or not.

More importantly, I don't have sufficient evidence that Mr T actually suffered any loss here. His representatives provided evidence of him paying into his crypto wallet, and sending crypto somewhere. But they've not provided any records of Mr T's contact with the scheme, nor of any written information or documents he received from the scheme, nor anything else which would show he was ever involved in this scheme. So I don't have any evidence of Mr T being told to send crypto in relation to this scheme, nor of where he did send his crypto – for all I know, he might've sent it to another wallet of his own, or to a friend, or he might've purchased goods or services with it, and so on. The representatives also provided a screenshot of a platform. But there's nothing to show it related to this particular scheme, nor that it related to Mr T, and it appears to have been taken on a different device to Mr T's other screenshots. Further, it just shows that a balance was held by someone. So for all I know, that balance was or is available to Mr T, or was only lost due to mismanagement of the scheme, or this was a screenshot of someone else's account, and so on.

So I don't have sufficient evidence that Mr T was scammed, or that he suffered any relevant loss here. Which would mean there'd be no scam loss for Halifax to potentially be held liable for in any case.

With that said, even if I were to conclude that this was a scam, and that Mr T suffered a relevant loss – despite the lack of evidence – I'm afraid I still couldn't reasonably hold Halifax responsible for that alleged 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 what he now thinks were 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. 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 T's case had this turned out to be a scam.

As this was a brand new account, opened for the specific purpose of this crypto trading, it would not have been particularly unusual for Mr T to then carry out said trading, and there was no historic activity to compare it to. While the payments were going to a cryptocurrency exchange, which can carry certain risks, this was a well-established exchange and the funds were going to another account of Mr T's. And while this was a substantial amount for Mr T to lose overall, the individual payments were not especially large, nor did they reach a particularly exceptional total during any given day, not least given the lack of prior activity to compare it to. So it's not clear that Halifax did need to intervene. But there's an argument that, given the pattern of spending, they should've perhaps asked some questions or given tailored warnings by 21 November 2023.

But even if Halifax had asked further proportionate questions or given tailored warnings, I don't think it's likely they would've uncovered a scam, and I think it's more likely than not that Mr T would've still gone ahead with the payments.

I say this because, at that point, Mr T had good reason to think the matter was genuine, and from what I've been given it did not yet really bear the hallmarks of a typical scam. For example, Mr T was not cold called or anything like that, he was introduced by a trusted friend he'd known for many years. That friend had been in the scheme for some months and been able to make multiple large withdrawals – this was not a case where, for example, only a small token withdrawal had been allowed to induce further investment. Mr T was also able to withdraw at that point and would've appeared to have ultimate control of the funds on the platform. At that point, Mr T had been in the scheme for about two months, seemingly without issue. The platform app came from the official vetted app store. Mr T had researched the firm and found it had been registered in the USA for many years – it was not, for example, a newly formed company or one which didn't exist or one in an alarming country. The FCA warning didn't exist yet, Mr T hadn't borrowed to invest, he'd not been told to lie to his bank or anything suspect like that, and so on.

Ultimately, even with the benefit of hindsight, Mr T's representatives have not been able to sufficiently evidence he was scammed here. Given all the above, I don't think it's likely that Halifax would've uncovered a scam at the time, nor that tailored warnings would've prevented Mr T from making further payments. Warnings about common scam indicators like cold calls, non-existent companies, being unable to withdraw, being told to lie, and FCA warnings were not likely to have dissuaded Mr T given that they didn't apply at that point. Indeed, it may have even indicated to Mr T that the scheme was more likely genuine.

Finally, I've considered whether Halifax should've reasonably done more to recover Mr T's funds after he told them he thought this was a scam. As these were card payments to his own cryptocurrency account, they were not covered by the CRM Code for scams. And as Mr T had sent the payments to an account of his own, then sent the funds on or returned them, it wasn't possible for Halifax to recover them. Further, there was no chargeback reason which would've been appropriate here. A chargeback would've been a claim against the crypto exchange rather than the investment scheme. And the exchange provided the service they were supposed to. There was no realistic prospect of success for a chargeback, and chargebacks are voluntary. So Halifax didn't need to try one in this case.

So while I'm very sorry to hear that Mr T may have lost his investment, I don't think Halifax can fairly be held responsible for the alleged loss. And so I cannot fairly tell Halifax to reimburse Mr T 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 16 July 2025.

Adam Charles
Ombudsman