DRN-5026068

The complaint

Mr L is complaining that Bank of Scotland plc trading as Halifax (Halifax) didn't do enough to prevent him from making payments to a scam.

The complaint is brought on his behalf by a professional representative but for ease I'll mainly refer to Mr L here.

What happened

Mr L says that in 2022 he was introduced to an investment scheme. He decided to invest in the scheme and between January 2022 and May 2022 he made 21 payments to a cryptocurrency exchange from his account with Halifax, which he says he then paid on to the scheme and subsequently lost. The payments were made to Mr L's account with the cryptocurrency exchange by debit card and by international money transfer.

In 2024 Mr L complained to Halifax, through his representative. Mr L said he now considered the investment scheme to be a scam, and he'd lost around £15,402.

Halifax didn't uphold Mr L's complaint. Mr L brought his complaint to the Financial Ombudsman Service, but our Investigator didn't think Halifax should have done anything to warn Mr L about making the disputed payments because they wouldn't have looked suspicious or out of character. She also noted that she'd not seen enough evidence that the disputed payments were made to the investment scheme.

Mr L didn't agree so his complaint has been passed to me for review and a 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'm not upholding Mr L's complaint for much the same reasons as the Investigator.

I don't think I have enough evidence that Mr L has suffered the loss he's claiming to a scam here. Although I can see that Mr L was involved in a chat related to the scheme which implies he did invest in it, he's not provided evidence (for example, statements from the cryptocurrency exchange) to show that the payments he made to the cryptocurrency exchange from Halifax were subsequently invested in the scheme and lost in full (so, as well as making the payments to the scheme, Mr L didn't receive anything back from it).

But because this doesn't make a difference to the outcome of Mr L's complaint, I'm going to proceed on the basis that Mr L did suffer the loss to a scam he's described.

I've thought about the Contingent Reimbursement Model (CRM) code which can offer a potential means of obtaining a refund following Authorised Push Payment (APP) scams. But the CRM code doesn't apply to payments made by debit card, payments made internationally, or to payments made to another account in the customer's own name, so Mr L's payments wouldn't be covered by it.

I've therefore considered whether Halifax should reimburse Mr L under any of its other obligations.

It's not in dispute that Mr L authorised the payments. And Halifax had a duty to act on his instructions. But in some circumstances a bank should take a closer look at the circumstances of the payments – for example, if it ought to be alert to a fraud risk, because the transaction is unusual for the customer, or otherwise looks characteristic of fraud. And if so, it should intervene, for example, by contacting the customer directly, before releasing the payments. But I'd expect any intervention to be proportionate to the circumstances of the payments.

But I've also kept in mind that banks such as Halifax process high volumes of transactions each day. There is a balance for it to find between allowing customers to be able to use their account and questioning transactions to confirm they're legitimate.

I have reviewed the available statements which show Mr L's general account activity, along with the payments he's disputing. And having considered when they were made, their value and who they were made to, I'm not persuaded Halifax ought to have found any of the payments suspicious, such that it ought to have made enquires of Mr L before processing them.

Mr L's payments were made to a cryptocurrency exchange – and in 2022 banks such as Halifax were becoming increasingly familiar with scams involving cryptocurrency. But when these payments were made it was reasonable for Halifax to consider a range of factors when deciding whether to make further enquiries of Mr L.

While it looks like some of the payments here were higher in value than the payments Mr L usually made from this account, it's not unusual for customers to occasionally make higher value payments than they usually do, and this is only one of the factors I'd expect Halifax to have considered when deciding whether to intervene. Here, none of the individual payments were of a value where I'd expect Halifax to be concerned about Mr L being at a heightened risk of financial harm from a scam, and no more than one payment was sent in a single day.

Some of the payments were made by international transfer which could in some circumstances indicate an increased risk of fraud, but I don't think Halifax ought to have been concerned about this here because this wasn't unusual for Mr L's account - he'd made several payments by this method before.

The 21 disputed payments were also spread over, broadly, a four-month period, and didn't escalate rapidly in frequency or value in the way that can sometimes indicate a scam may be taking place.

So, notwithstanding that I've not seen enough evidence to show that the payments Mr L is disputing were lost to a scam, I don't think it was unreasonable for Halifax not to view the payments as suspicious, such that it should have carried out any additional checks or given an additional warning before processing the payments. So, I don't think Halifax ought to have done any more to prevent the payments Mr L made.

I've also thought about whether Halifax could have done more to recover Mr L's funds once the scam had been reported. It's sometimes possible to dispute debit card payments through a process called chargeback, but I don't think there were any grounds for a chargeback claim to have succeeded here, because the cryptocurrency exchange provided the agreed service to Mr L. Halifax did attempt to recall the transfers Mr L made, but because the payments were made to an account held in Mr L's name and he had already moved the funds on from there, it's difficult to see how recovery could ever have been possible here.

I know this outcome will be disappointing for Mr L and I'm sorry for that. But for the reasons I've explained, I don't think Halifax should have done more to prevent his loss. So, it wouldn't be reasonable for me to ask it to refund the payments he made.

My final decision

My final decision is that I'm not upholding Mr L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 18 August 2025.

Helen Sutcliffe
Ombudsman