

The complaint

Mrs H complains that Bank of Scotland plc trading as Halifax ("Halifax") hasn't done enough to protect her against the loss of money to a scam.

What happened

Mrs H says that in 2017 she saw and advert for a trading platform that I will call B. She says a friend had used it successfully. She subsequently signed up with it and opened an account.

Once this account was opened, she made a number of payments between December 2017 and July 2018.

Some months later after failing to be able to withdraw her funds from B and being told that her investments were now worthless Mrs H discovered that she had been scammed. Mrs H reported to Halifax that she'd been scammed in 2024 via her representative. Halifax declined to refund Mrs H's transactions. Mrs H remaining unhappy and referred her complaint about Halifax to us.

Our investigator said that we could not look at the payments that were made between December 2017 and May 2018 he also did not think that Halifax should refund the remaining transactions. Mrs H did not agree with this outcome and therefore the case has been passed to me for a final decision.

I issued a decision saying that I could not consider the payments that were made between December 2017 and May 2018 because the complaint about them were made too late. So, this decision will only be addressing the remaining payments.

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 don't think Halifax could reasonably be expected to have prevented the payments Mrs H says she lost to a scam. This is because at the time generally, banks were expected to process payments a customer authorised it to make. And under The Payment Services Regulations and terms and conditions of the account, Mrs H is presumed liable for the loss in the first instance, in circumstances where she authorised the payment.

That said, as a matter of good industry practice, Halifax reasonably should have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam.

In this instance the first payment that we can consider was for £10,000 which is a larger size compared to the payments that Mrs H usually made from her account. So, I think that Halifax should have intervened and asked questions about what the payment was for.

I am mindful that when this payment was made crypto scams were not as common and there were also no credible warnings about B at the time the payment was made. I also can see that, Mrs H was recommended the investment by a friend and she had withdrawn some of her “profits”. So, I don’t think that Halifax would have been aware that Mrs H was being scammed and at most it could only have given a general warning about the dangers of investment scams. Therefore, for the same reasons I’ve mentioned above I don’t think that a general warning would have stopped Mrs H from proceeding with the payments.

I’ve also thought about whether Halifax did enough to attempt to recover the money Mrs H lost. In this instance the Contingent Reimbursement Model does not apply as it was not in force at the time and in any event the payments made were debit card payments which are not part of the CRM.

The debit card payments could potentially have been recovered by a chargeback. But in this case, a chargeback would not have been successful, as the transactions Mrs H used her debit card for were to pay for the purchase of cryptocurrency, which she duly received. It was only when the cryptocurrency was transferred from her crypto wallet to the scammer did the loss then occur. So, she could not claim that he did not receive the goods or services paid for from her Halifax account, which was the purchase of the cryptocurrency. As a result, I don’t think Halifax have acted unreasonably by failing to pursue a chargeback claim here.

I appreciate this will come as a disappointment to Mrs H, and I’m sorry to hear she has been the victim of a cruel scam. However, I’m not persuaded that Halifax can fairly or reasonably be held liable for her loss in these circumstances. I note that Mrs H’s representative has indicated that it believes that Halifax should pay £1,000 for the distress caused by this matter but given that I don’t think that Halifax is liable for her loss I don’t think that any compensation is merited.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs H to accept or reject my decision before 8 November 2024.

Charlie Newton
Ombudsman