

## **The complaint**

Mr K complains that Bank of Scotland plc trading as Halifax ('Halifax') won't refund the money he lost to an investment scam.

## **What happened**

The background is known to both parties. I won't repeat all the details.

In summary, Mr K says that, in October 2023, he saw an advert (seemingly endorsed by a celebrity) about cryptocurrency investments. He registered his interest and was contacted by someone (a scammer) claiming to be an 'investment adviser' at a 'company' (I'll call 'F').

Believing he was dealing with a genuine individual he made payments for 'investment' and later withdrawal 'fees' as instructed. The payments, between October 2023 and February 2024, were sent from Halifax to Mr K's other accounts with separate firms ('R' and 'W'). His last two payments, in March 2024, were used to buy cryptocurrency from a seller ('L') in the peer-to-peer (P2P) market. That cryptocurrency was then lost to the scam.

He was repeatedly asked to pay more in 'fees' to release funds which, in February 2024, he was led to believe had grown to £450,000. By the time he realised he'd been scammed, over £123,000 had been sent from his various account with separate firms.

The matter was reported to Halifax in March 2024. A complaint was raised and referred to our Service. Our Investigator didn't uphold it. In brief, he didn't think Halifax ought to have been concerned about payments to R and W. And it wasn't unreasonable for Halifax to have processed payments to L given the information Mr K provided when questioned about them.

As the matter couldn't be resolved informally, it'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.

Having done so, I've decided not to uphold it for similar reasons as the Investigator.

### *Authorisation*

It's not in dispute Mr K was scammed and I'm sorry about the impact the whole experience has had on him. It's also not in dispute he authorised the payments from his Halifax account. So, although he didn't intend the money to go to a scammer, under the Payment Services Regulations 2017, Mr K is presumed liable for his losses in the first instance. And as the Supreme Court reiterated in *Philipp v Barclays Bank UK PLC*, banks generally have a contractual duty to make payments in compliance with the customer's instructions.

But that's not the end of the matter. Taking longstanding regulatory expectations and requirements into account, and what I consider to have been good industry practice at the time, Halifax should have been on the look-out for the possibility of fraud and made

additional checks before processing payments in some circumstances.

### *Prevention*

In this case, I don't think there was enough about the payments to R and W for Halifax to have intervened on suspicion that Mr K was at a heightened risk of fraud. The payments wouldn't have appeared as particularly concerning in value. I don't think a significant fraud pattern ever developed and I'm mindful these payments were made to Mr K's own accounts with other regulated firms. And while Halifax should probably have stepped in when it came to the larger payments Mr K made to L, I'm not persuaded proportionate interventions would have prevented the scam, such that I can reasonably hold it liable for his losses.

As referred to by the Investigator, Halifax did intervene on some of Mr K's payments to find out more about the surrounding circumstances. There were two calls with its fraud team on 27 February 2024 for his transfers to W. In the first call, Mr K told Halifax he was sending money to his account with W so that his Wife could use it for spending while abroad. After he was given warnings about 'impersonation scams', Mr K confirmed the information he'd given was genuine and that he'd not been asked to lie to the bank.

In the second call, Mr K was told Halifax was asking questions to keep his money safe. He again explained he was sending funds to W for his Wife to use abroad and for expenses to help her mother who was unwell. This was a further £7,600 on top of the £2,700 discussed in the call above. Mr K told Halifax the money was to stay in the destination account, used for spending as and when, and not intended for onward transfer. He confirmed he'd not been contacted by anyone about moving the money for any other reasons than the one given.

I note that, in reply to the Investigator's outcome, Mr K denies misleading the bank about the payment purpose. He says the money was to be sent to help his mother-in-law as evidenced by some earlier communications with R. But the interventions referred to above were to W. I've seen that when the funds reached W, instructions were given to send the funds to P2P sellers. I've listened to Mr K's 'scam reporting' call to Halifax in which he accepted he was under a lot of pressure and followed the scammer's instructions to mislead on the payment reasons so they'd go through without issue. And if Mr K is saying he didn't mislead Halifax about his payment reasons to W, then it's difficult to see how it can have established them as scam payments if it wasn't the intended purpose at the time.

Both payments to L were also stopped by Halifax for additional checks. On 1 March 2024, Mr K was asked for the payment reason. He said he was buying cryptocurrency. He told Halifax he'd carried out his due diligence and that he'd sent payments to L before without problems. He was told Halifax wouldn't process the payment until the next day. This was to allow Mr K the opportunity to think more about whether he was still happy to proceed. When Mr K called back, he confirmed no 'adviser' was involved and that he'd not been asked to move the money. On 4 March 2024, Mr K's second payment to L was blocked. Mr K again confirmed he'd paid the recipient before without problems. He then went on to say he'd come to know about them from a colleague who'd used L previously; that no 'adviser' was involved; and that he'd be keeping the Bitcoin for himself *"and see where it goes"*.

I'm again sorry Mr K was scammed. I appreciate the information he's shared with us about his circumstances and I'm mindful that the scam has affected him deeply. But I'm satisfied Halifax took proportionate steps to establish if a scam was taking place. The responses it received to some key questions were inconsistent with the truth and I don't think it'd be fair to hold it liable for what then happened here. And, given also the extent to which Mr K was seemingly under the scammer's spell and prepared to follow their instructions, I don't think the scam would have likely been exposed even if Halifax had gone further than it did.

### *Other matters*

In terms of recovery, there was little Halifax could have done. For the transfers to Mr K's accounts with R and W, the funds had been sent to the scam by the time it was reported or they would have otherwise been accessible by Mr K himself. For payments to L, these were sent to sellers in the P2P market so there wouldn't have been a basis for Halifax to attempt a recall. There's no dispute L provided the cryptocurrency as intended (before it was then sent to the scam) and no evidence L was part of the scam itself. As for Mr K's suggestion that his daily spending limits may have been breached in relation to payments to L, the system data (and statements) shows the instructions were given days apart (on 2 and 4 March 2024).

### **My final decision**

For the reasons I've given, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 15 August 2025.

Thomas Cardia  
**Ombudsman**