DRN-5056258

## The complaint

Mr and Mrs M have complained that Bank of Scotland plc (trading as Halifax) won't refund the money they lost in a scam.

## What happened

This complaint surrounds a joint account of Mr and Mrs M's. But as the events in question happened to Mr M, I'll mainly be talking about Mr M.

In late 2022, Mr M was cold-contacted on a messaging app, and was offered a fully remote freelance job paying large amounts for little work, with no real qualifications needed and the training provided. However, these were scammers.

Mr M had his own account on the scammers' website and was given tasks to complete. He was added to a group chat with other supposed employees touting their successes. He was asked to pay the scammers cryptocurrency to clear negative balances, to earn commission, to increase his credit score with them, and to pay taxes. He was unable to withdraw his earnings, and was then persuaded to pay further crypto to try to recover his funds. Over the course of around six months, Mr M sent the scammers about £120,000. He did this by paying money from his Halifax account into his own crypto account, then sending it to the scammers from there. He'd also paid the scammers using an account of his with a different bank, separate to this account.

As the money had gone to an account in Mr M's own name and then been sent on, it wasn't possible for Halifax to recover it. And Halifax didn't think it was otherwise liable for Mr and Mrs M's losses.

Our Investigator looked into things independently and upheld the complaint in part. Halifax didn't agree, 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.

There's no dispute that Mr M authorised the payments involved, even if he didn't intend for the money to go to scammers. So under the Payment Services Regulations and the terms of the account, Mr and Mrs M are liable for the loss in the first instance. But the matter doesn't end there.

Taking into account the law, regulator's rules and guidance, relevant codes of practice, and what I consider to have been good industry practice at the time, I consider that Halifax should have fairly and reasonably:

- Monitored accounts and payments to counter risks such as fraud and scams;

- Had systems in place to look out for particularly unusual transactions or other signs its customers were at risk of fraud;

- In some circumstances, taken further steps or made further checks before a payment went out, or even blocked it, to help protect customers – irrespective of the type of payment involved.

Here, I find that Halifax should have intervened at the point of the third payment. That was a fairly substantial payment, and combined with the spending which preceded it, it meant that Mr M had paid a concerningly notable amount to a crypto site over a pretty short time. While Mr and Mrs M had made a few other large payments recently, the scam payments were more rapid, and they went to a crypto site. By this point, the Financial Conduct Authority (FCA) and Action Fraud had published warnings about cryptocurrency scams and there was substantial media coverage, so Halifax should've had a good understanding of the risk of these scams and how they work. And while Halifax pointed out that Mr and Mrs M had made some historic crypto-related payments before, those were too long ago to be relevant by the time of this scam. I think that by the third scam payment, the payments involved stood out as being remarkable, and should have prompted Halifax to intervene.

Had Halifax intervened at that point and asked reasonable questions, it seems most likely that it could have uncovered the scam and stopped any further loss. The matter bore many hallmarks of a relatively prominent scam – for example, Mr M being cold-contacted, having to pay to work, the use of cryptocurrency, there being no proper contract, not being able to withdraw until he met certain conditions, and so on. I've not found sufficient reason to conclude that Mr M wouldn't have been honest about why he was making these payments or that he wouldn't have listened to Halifax. The scammers hadn't given him coaching, and Halifax is a well-known name in banking. Halifax pointed out that Mr M had not revealed the scam during two conversations with a different bank. But we already found in that case that that bank did not question things properly, and that a suitable line of questioning would've uncovered the scam. I've found no good reason to depart from those findings.

I do appreciate that the payments went from Halifax to an account in Mr M's name. But Halifax should've fairly and reasonably been on the lookout for potentially fraudulent payments, even if the payments were going to another account in the customer's name. There are prominent scams which involve paying an account in one's own name. And identifying and preventing such scam payments would still have the effect of preventing a loss to its customer. So Halifax can still be held liable for a loss which resulted from its failure to intervene – which is what I've found to have most likely been the case here.

So I think that Halifax bears some liability for the loss from the third payment onwards.

I’ve also thought carefully about Mr M’s role in what happened. I do appreciate that Mr M would’ve felt reassured by being initially able to withdraw, and by the professional website. And I understand that the scammers were impersonating a genuine company, which meant that they would’ve looked more legitimate and it would’ve been more difficult to find negative reviews or warnings. But I’m afraid I think Mr M ought to have had more concerns along the way about what he was being told and asked to do. He was cold-contacted on a messaging app, he doesn’t appear to have had any real contract, he had to pay to work and the reasons given don’t seem to have been reasonable, he didn’t take the opportunity to discuss this when his other bank contacted him about it, the scammers used poor grammar, and the pay and conditions offered were much too good to be true for this kind of work.

So I don’t think I can fairly hold Halifax solely responsible for Mr and Mrs M’s losses. I think Mr and Mrs M should also bear some responsibility for the losses here.

**Putting things right**

Bank of Scotland plc (trading as Halifax) should:

- Refund 50% of the loss from the third payment onwards (£3,000 on 13 December 2022), including any related fees; and-

- Add simple interest at the rate of 8% simple per year onto the refund, payable from the date each partially-refunded payment debited until the date of the refund.

If Halifax considers that it’s required by HM Revenue & Customs (HMRC) to deduct tax from that simple interest, it should tell Mr and Mrs M how much tax it’s taken off. It should also give Mr and Mrs M a tax deduction certificate if they ask for one. Mr and Mrs M may be able to reclaim the tax from HMRC if they don’t normally pay tax.

**My final decision**

For the reasons I’ve explained, I uphold Mr and Mrs M’s complaint in part, and direct Bank of Scotland plc (trading as Halifax) to put things right by doing what I’ve said above.

If Mr and Mrs M accept the final decision, Bank of Scotland plc (trading as Halifax) must pay them within 28 days of the date our service notifies it of the acceptance.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs M and Mr M to accept or reject my decision before 9 December 2024.

Adam Charles
**Ombudsman**