

## **The complaint**

Mrs C has complained that Bank of Scotland Plc (trading as “Halifax”) failed to protect her from falling victim to an investment-related scam.

## **What happened**

The background of this complaint is already known to both parties, so I won’t repeat all of it here. But I’ll summarise the key points and then focus on explaining the reason for my decision.

Mrs C has used a professional representative to refer her complaint to this service. For the purposes of my decision, I’ll refer directly to Mrs C, but I’d like to reassure Mrs C and her representative that I’ve considered everything both parties have said.

Mrs C says that before this scam took place she’d been exploring investment opportunities online and had attempted to invest in cryptocurrency. But she found the process confusing and overwhelming due to her lack of experience, so she decided not to continue on her own.

Around June 2022 Mrs C says she received an unsolicited phone call from someone (“the scammer”) claiming to represent an alleged investment company. The caller described an investment opportunity and assured her that they could handle the process for her, providing ongoing support. Mrs C says that as she felt reassured by the scammer she agreed to start with a small initial investment of £250.

Mrs C explains that she conducted some research on the investment company before proceeding. She says she found positive reviews online and received additional information from the caller, including apparent client success stories. She recalls that the company appeared to have a UK address, and the caller used a UK phone number, which made the opportunity seem legitimate.

Shortly after, Mrs C says she was contacted by someone else who introduced themselves as an Accounting Manager for the company. She was guided through setting up an account on what she describes as a professional-looking online platform. According to Mrs C, the platform featured live trading graphs and other tools that made it seem authentic. She also provided a copy of her driving license as part of a verification process, which further reassured her.

Over the next few weeks, Mrs C says she stayed in regular contact with representatives from the company, who provided updates on her investments and claimed she was earning significant profits. She says she was encouraged to make further payments to increase her returns, and she made several additional investments, amounting to thousands of pounds. In order to fund the investments Mrs C transferred the funds from her Halifax account to an account she holds with a different company, and from there she made payments to the scammers.

The payments Mrs C made as part of the scam were as follows:

	<b>Date</b>	<b>Amount (£)</b>
1	26/05/2022	251.62
2	14/07/2022	1,750
3	09/08/2022	2,500
4	15/08/2022	1,280
5	15/08/2022	1,280
6	15/08/2022	1,793
	<b>Total</b>	<b>8,854.62</b>

When Mrs C attempted to withdraw her funds she says she was told she needed to pay additional fees to do so. She describes making several payments in response to these demands, but the representatives continued to ask for more. Eventually, Mrs C says the company's website disappeared, and all contact with the company stopped. At this point, she realised she'd been scammed and was unable to recover her funds.

Mrs C made a complaint to Halifax in which she said she was surprised that it failed to detect the scam, which has all the hallmarks of a well-known scam. She says that as Halifax failed to identify the scam, it missed several opportunities to intervene and stop it from taking place, especially as the company she holds her other account with (where she made the payments to) is well-known for facilitating scams. She requested that Halifax refund her losses, plus interest, as well as paying her £300 compensation. Halifax didn't uphold Mrs C's complaint. In its response it said Mrs C could've taken more precautions before making the payments. It also said that as Mrs C was making payments to another account in her own name, and there were no unusual patterns so this didn't cause any suspicions that ought to have prompted an intervention.

Mrs C remained unhappy so she referred the complaint to this service.

Our investigator considered everything and didn't think the complaint should be upheld. He explained he didn't think the payments showed signs of heightened risk of financial harm from fraud, so he didn't think it was wrong for Halifax to process them in line with Mrs C's instructions, without intervening first. He also noted Mrs C had made other payments of larger values, and he said that the payments were made to Mrs C's own account elsewhere, so he wouldn't have expected Halifax to treat them as high-risk payments.

As Mrs C didn't accept the investigator's opinion, the case has been passed to me to make 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.

I'm sorry to disappoint Mrs C but having considered everything I'm afraid I'm not upholding her complaint, broadly for the same reasons as our investigator, which I've set out below.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's not in question whether Mrs C authorised these payments from leaving her account. It's accepted by all parties that Mrs C gave the instructions to Halifax and Halifax made the payments in line with those instructions, and in line with the terms and conditions of Mrs C's account.

But that doesn't always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won't result in harm.

Having carefully considered the payments that took place as a result of this scam I'm not persuaded that Halifax ought to have intervened before they were made. I know this'll likely be disappointing for Mrs C to hear, but I'll explain why.

Considering the individual transaction values, they don't stand out as particularly large, nor are they so out-of-character that Halifax ought to have been on alert that they may've been linked to fraudulent activity. Although the payments are larger than those that immediately preceded them, in May 2021 Mrs C made three large payments: one for £6,500, one for £1,195 and one for £7,320. Although I recognise this was around a year before the scam took place, it contributes towards the picture of "normal" account usage for Mrs C – and to some extent, would've reassured Halifax that payments similar to the values seen in this scam are normal.

I'm also mindful that the payments were made to Mrs C's own account elsewhere – which would likely have been verified by the "Confirmation of Payee" facility before they were sent. An individual sending funds to another of their own accounts tends to alleviate suspicions of fraud, especially in a case such as this one, where I can see the predominant transactions on Mrs C's account are payments to her own accounts elsewhere. This again persuades me that it was reasonable for Halifax to consider it typical for Mrs C to make the payments to her own account, without asking further questions or intervening in some other way. Additionally, although I recognise the scam ultimately led Mrs C to purchasing cryptocurrency, which is known to be high-risk, at the point Mrs C made the payments there's no way Halifax would've known about that.

Finally, also don't think Halifax ought to have been on alert that Mrs C might've been the victim of a scam when considering the pattern in which the payments were made. The first three payments were made with around three weeks between them, and that's not typical of a scam. The final three, although sent on the same day, were sent to the same payee and had a value that even combined, was still fairly unremarkable. Combined with the other factors, such as the payee being Mrs F's own account, I don't think Halifax should've intervened, so I don't think it's responsible for what unfortunately happened to Mrs F.

### Recovery of the funds

The first payment was made using Mrs C's credit card, so the chargeback process is relevant. In simple terms a chargeback is a mechanism for a consumer, via their card provider, to reclaim money from a retailer's bank when something has gone wrong, provided the transaction meets the eligibility criteria. It's for the card provider to decide whether to raise a chargeback, and it only needs to do so if it has a reasonable prospect of success.

It's also relevant to note that raising a chargeback isn't a legal right, and it's for the debit or credit card provider to decide whether to make a chargeback request to the retailer's bank. The process for managing these claims is determined by a set of rules by the card payment networks and there are no guarantees the card provider will be able to recover the money through the chargeback process.

In order for Halifax to raise a successful chargeback it'd need to provide evidence that the merchant didn't provide the goods or services that Mrs C paid for. So although I understand Mrs C used her credit card to purchase cryptocurrency which she sent on to the scammer, there's no evidence that merchant didn't fulfil their obligation to provide the cryptocurrency that was paid for. So the dispute doesn't lie between Mrs C and the merchant, but instead

Mrs C and the scammer, and there wasn't a reasonable prospect of a chargeback claim being successful, so I don't think that was a route that Halifax ought to have pursued.

Mrs C made the remaining payments (2 to 6) to her own account with a different bank, so I wouldn't have expected Halifax to attempt recovery. As Mrs C has confirmed she made further payments from the other bank to purchase cryptocurrency, there'd have been nothing for Halifax to recover. And in any case, if Halifax had attempted recovery, it would've been attempting to recover funds from Mrs C herself, as opposed to the scammer.

I'm very sorry that Mrs C has fallen victim to this scam and I do understand that my decision will be disappointing. But for the reasons I've set out above, I don't hold Halifax responsible for that.

### **My final decision**

I don't uphold Mrs C's complaint against Bank of Scotland Plc, trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 27 January 2025.

Sam Wade  
**Ombudsman**