

The complaint

Miss T is unhappy that Bank of Scotland plc, trading as Halifax, will not refund the money she lost as the result of a scam.

What happened

As both parties are familiar with the details of the scam I will not repeat them here in full. In summary, Miss T fell victim to an impersonation scam. Between March 2023 and April 2024 she made 31 payments totalling £10,441.09 to a scammer who was posing as a literary agent. Miss T was looking for a book publisher at the time. The details of the payments are set out below.

payment	date	value	made via
1	08/03/2023	£257.90	Western Union
2	10/03/2023	£175.90	Western Union
3	13/03/2023	£82.87	Western Union
4	15/03/2023	£170.93	Western Union
5	26/07/2023	£478.90	Western Union
6	28/07/2023	£160.60	Western Union
7	03/08/2023	£401.41	Western Union
8	04/08/2023	£243.74	Western Union
9	24/08/2023	£365.00	PayPal
10	21/09/2023	£252.47	PayPal
11	29/09/2023	£261.09	PayPal
12	09/10/2023	£175.89	PayPal
13	19/10/2023	£432.52	PayPal
14	30/10/2023	£218.77	PayPal
15	08/11/2023	£297.78	PayPal
16	15/11/2023	£429.55	PayPal
17	28/11/2023	£502.18	PayPal
18	27/12/2023	£520.00	Remitly.com
19	29/12/2023	£446.99	Remitly.com
20	02/01/2024	£295.13	PayPal
21	09/01/2024	£177.99	PayPal
22	16/01/2024	£781.60	PayPal
23	26/01/2024	£102.99	PayPal
24	06/02/2024	£211.06	PayPal
25	15/02/2024	£210.15	PayPal
26	27/02/2024	£208.80	PayPal
27	29/02/2024	£333.20	PayPal

28	19/03/2024	£330.66	PayPal
29	19/03/2024	£453.53	PayPal
30	27/03/2024	£698.50	PayPal
31	16/04/2024	£762.99	PayPal

All payments except payment 30 were made by debit card, 30 was a faster payment. Halifax refunded payments 18 and 19, payments that it had asked Miss T about yet then went on to process. Miss T realised she had been scammed when 3,000 copies of her book that she was expecting never turned up.

Miss T says Halifax did not do enough to protect her; she was vulnerable at the time. It should have intervened at the time of payment 3. Halifax says the transactions were in line with usual account activity and therefore there was no reason to intervene. Payments 18 and 19 were refunded after investigation by its fraud team into a social engineering scam triggered by routine checks.

Our investigator did not uphold Miss T's complaint. He found there was no reason for Halifax to have intervened in any of the payments. And as the payment intermediaries had provided the service offered it was reasonable for Halifax not to raise chargeback claims to try to recover the money. He said Halifax was not on notice of Miss T's vulnerabilities, plus she confirmed to this service her condition did not impact her money management at the time, or make her more susceptible to scams.

Miss T disagreed with this assessment and asked for an ombudsman's review. She sent in medical evidence that explains her mental health condition, including the signs and symptoms of the disorder.

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 have also taken into account the law, the regulator's rules, relevant codes of practice and what was good industry practice at the time. To note, as payments 1-29 and 31 were made by debit card the principles of the Contingent Reimbursement Model code do not apply to those transactions. This is also the case for payment 30 as whilst it was a faster payment, it was not made directly to another UK bank account.

I am not upholding Miss T's complaint. I anticipate that this will be very disappointing for Miss T, and I do understand that the whole episode has been deeply distressing. It isn't in dispute that Miss T has been the victim of a scam and lost money as a result – but I need to decide if the loss she suffered could have been prevented by Halifax.

I'm afraid though that I don't think that Halifax could have prevented what happened here. I'll explain why.

In line with the Payment Services Regulations 2017, Miss T isn't liable for payments she didn't authorise unless she failed, with gross negligence or intent, to comply with the terms of the account or to keep her personalised security details safe. But I am satisfied that Miss T did authorise the payments, and she is not disputing this. Whilst I understand that Miss T was tricked by the scammer, and she believed he was a literary agent who was securing a publishing deal for her, this doesn't change the fact that she authorised the payments, and banks are generally expected to act on their customers' instructions.

That said, there are some circumstances where a bank should take proactive steps to identify and help prevent losses from certain transactions. However, there is a balance to be struck: banks have obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction.

So I consider Halifax should fairly and reasonably:

- been monitoring accounts – including payments made and received – to counter various risks including anti-money laundering, countering the financing of terrorism and preventing fraud and scams;
- have had systems in place to look out for unusual transactions or other signs that might indicate its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer; and
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

In this case, Halifax contacted Miss T when she made payments 18 and 19. It has explained this was as a result of random fraud checks and it processed the payments after talking to Miss T. But as its fraud team later concluded Miss T had fallen victim to a social engineering scam, and it refunded these payments on 30 December 2023, I need not consider them here.

I do note, however, that Miss T did not disclose to Halifax that these payments were in any way connected to the previous 17, even after she received the refund and despite the fact they were made based on the same scammer's instructions. And as they were made via a different intermediary, I cannot conclude Halifax itself missed the opportunity to make any connection and prevent further losses.

So I now need to consider if Halifax ought to have intervened in any of the other payments. I don't find it needed to. The payment values were not high, they were not made in quick succession and they were sent via payment intermediaries that Miss T had used before for similar value payments. It follows I don't think Halifax acted in error when it did not intervene in any of these payments. So I cannot fairly hold it liable for her losses.

I have then thought about whether Halifax did what it should to try to recover Miss T's payments.

As she made all but one of the payments using her debit card, the only potential recovery option for those transactions would have been through the chargeback scheme. The chargeback process is voluntary and run by the card scheme whereby it will ultimately arbitrate on a dispute between the merchant and customer if it cannot be resolved between them after two 'presentments'. Such arbitration is subject to the rules of the scheme — so there are limited grounds on which a chargeback can succeed or be deemed a 'valid claim'. Our role in such cases is not to second-guess the card scheme rules, but to determine whether the regulated card issuer, so here Halifax, acted fairly and reasonably when presenting (or choosing not to present) a chargeback on behalf of its customer.

I can see that Halifax did not attempt any chargeback claims. I think that decision was reasonable as the payment intermediaries had not failed to provide the service they sold — that is, to transfer money to an account held elsewhere. For the sole faster payment I also think Halifax would have no chance of a successful recovery as again the money was sent to a payment intermediary, not the scammer directly.

Finally, I have carefully considered what Miss T has said about being vulnerable at the time. I appreciate the additional medical evidence that she submitted last month. From this, but accepting I am not a mental health expert, I do think her condition may impact how susceptible she is to scams – particularly the type she fell victim to – which is contrary to what she told us. I say this as the medical evidence lists poor judgment, excessive spending and unrealistic beliefs of one's abilities/powers as characteristics of the condition.

However, that said, Halifax was not on notice of Miss T's vulnerabilities at the time and so I cannot reasonably expect it to have made any required reasonable adjustments. Nor do I find that there were any indications of her vulnerabilities in the parties' interactions that Halifax failed to spot. Miss T may want to consider telling all firms she has financial relationships with about her condition to ensure she receives appropriate support ongoing.

It follows I am not instructing Halifax to refund any money to Miss T. I'm sorry Miss T lost a significant amount of money and I am sure this has been a stressful experience for her. But for the reasons I've explained, I don't think Halifax, who had no involvement in the scam itself, can be fairly held liable for her losses.

My final decision

I am not upholding Miss T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 5 February 2025.

Rebecca Connelley
Ombudsman