DRN-5212954

## The complaint

Mr W complains that Bank of Scotland plc, trading as Halifax, won't reimburse him for payments he made to a scam.

Mr W's complaint is brought by a professional representative but for ease I will refer only to Mr W in this decision.

## What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr W noticed a cryptocurrency investment opportunity with a company called 'N', online. The investment promised good returns, explosive growth and a weekly bonus. Mr W reviewed the company's website and a professional networking site, and they gave him no cause for concern. Between the end of 2019 and March 2023, he made several payments to genuine accounts in his name with companies who I'll call 'S' (an electronic money institution and payment service provider) and 'B' (a cryptocurrency exchange). He subsequently exchanged those funds, or some of them, for cryptocurrency and transferred them to the scammer who he believed would invest the money for him. Mr W received some money back from the scammer that he thought was profit from his investment but in July 2023 he realised he'd been scammed and had inadvertently been scammed.

Mr W complained to Halifax but when they didn't uphold his complaint he referred it to this service.

Our investigator didn't think there was anything unusual in most of the payments Mr W had been making. She noted that they were relatively low in value, in line with previous spending and spread out over time. She didn't think Halifax ought to have been suspicious of those transactions, but she did think they ought to have provided a tailored warning to Mr W when he made a payment of £4,200 to B in February 2023. She thought that was an unusually high payment being sent to a high-risk platform. However, the investigator thought that even if Halifax had sent a message to Mr W at that point it would have been unlikely that Mr W would have heeded the warning and that the scam would have been uncovered. She noted Mr W had been investing for some time by that point, he'd received some returns on that investment, and he'd done his research into N already. Our investigator didn't, therefore, think it would be fair to ask Halifax to refund any of the money Mr W had paid towards the scam.

Mr W didn't agree with the investigator's opinion. He thought that Halifax had missed a critical opportunity to intervene when the £4,200 payment was made to B, and he explained that the transaction history showed the payments he was making had been escalating and he said that should have raised concerns. He asked for a decision by an ombudsman.

## 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 was very sorry to hear that Mr W had lost money in the way that he did. I appreciate how distressing and frustrating it must have been for him but that doesn't automatically mean Halifax should refund him and I don't think that here it would be fair to ask them to do so. I'll explain why.

The Financial Ombudsman is designed to be a quick and informal alternative to the courts. Given that, my role as an ombudsman is not to address every single point that has been made. Instead, it is to decide what is fair and reasonable given the circumstances of this complaint. And for that reason, I am only going to refer to what I think are the most salient points. But I have read all of the submissions from both sides in full and I keep in mind all of the points that have been made when I set out my decision.

Where the evidence is incomplete, inconclusive, or contradictory (as it is here), I must make my decision on the balance of probabilities – that is, based on what I consider to be more likely than not to have happened, in the light of the available evidence and the wider surrounding circumstances.

I'm required to take into account the relevant, laws and regulations; regulators rules, guidance, and standards; codes of practice and, when appropriate, what I consider to have been good industry practice at the relevant time.

Broadly speaking, Mr W is responsible for any payments made from his account which are properly authorised, as they were here. And Halifax has a duty to process valid payment instructions quickly and with minimal friction. These positions are set out in the Payment Service Regulations (2017).

However, taking into account the relevant law, regulations, industry guidance, and best practice, firms like Halifax ought fairly and reasonably to have systems in place to monitor transactions and accounts for signs that its customer might be at risk of financial harm through fraud. Where such risks are detected, there ought to be action from the bank to intervene through the giving of warnings and scam education. Any intervention should be proportionate to the risk presented by the circumstances of the payment.

Halifax should also have been aware of the increase in multi-stage fraud (including those involving cryptocurrency) when considering the scams that its customers might become victim to. Multi-stage fraud involves money passing through more than one account under the consumer's control before being sent to a fraudster. Our service has seen a significant increase in this type of fraud over the past few years and it's a trend Halifax ought fairly and reasonably to have been aware of at the time of the scam.

Scams involving cryptocurrency have also increased over time. The Financial Conduct Authority (FCA) and Action Fraud published warnings about cryptocurrency scams in mid-2018 and figures published by the latter show that losses suffered to cryptocurrency scams have continued to increase since. They reached record levels in 2022.

I think Halifax would have been aware at the time the payments were made that fraudsters use genuine firms offering cryptocurrency as a way of defrauding customers and that these scams often involve money passing through more than one account. So, Halifax should have been alert to whether these payments were part of a wider scam. The fact that the money used to fund the scam wasn't lost at the point it was transferred to Mr W's own account does not alter the fact that I may think Halifax could be held responsible for Mr W's loss in such circumstances.

Where there is a failure by a firm to properly intervene and protect a customer, it might then be fair and reasonable to say that the firm becomes responsible for the customer's loss. And so, in Mr W's case, it's for me to determine if Halifax made an error(s) over the course of the scam and, if so, whether it's fair and reasonable for it to be held responsible for his losses as a result.

I don't think the payments made to S and B before Mr W transferred £4,200 to B in March 2023 were unusual. Mr W had held the account with S since 2019 and he'd made several payments to it and had, in turn, received several credits. The value of those payments wasn't out of line with his normal transactions, the payments were reasonably low in value and the payments were spread out. I don't think there was anything to suggest there was an unusual pattern of payments. Payments to B prior to March 2023 were also reasonably typical of Mr W's spending pattern. They were well spaced; days and often weeks passed without payments being made. They were of relatively low value and payments were made over a period of many months. I don't think the payments escalated so significantly before March 2023 that they would have seemed unusual. While payments were being made to a cryptocurrency platform, I wouldn't expect Halifax to intervene when *any* payments were made to such a platform. That would create undue friction to the banking process. So, I don't think Halifax failed to protect Mr W during that period as I don't think there was unusual activity that warranted an intervention.

In March 2023 when Mr W made a much larger payment of £4,200 to B I think Halifax should have intervened. This was a significant, out of character, payment to a cryptocurrency exchange. Given what I've said above about the increase in fraud involving cryptocurrencies. I think a proportionate intervention would have been to have asked Mr W some questions to narrow down the scam risk and to then provide a tailored warning.

Had Halifax asked further questions, I am satisfied that Mr W would have been honest in his responses. I say that because I've not seen that he was being coached by the scammers and because I've not seen that he was trying to conceal what he was doing with the funds. But, having said that, I don't think it would have been likely to make any difference here. Mr W has explained that he'd researched the investment opportunity before he entered into it, he'd not simply responded to the more common social media advertising or celebrity endorsement, he'd done part of his research through a professional networking site that suggested N was a worthwhile cause. He'd found nothing in that search and his other research that gave him cause for concern, and he'd been investing for some considerable time and had been able to withdraw several thousand dollars back into his accounts. Credits from S at the time Mr W made his £4,200 payment, totalled almost £2,000 and payments towards his account with B had reached. I think it's likely he would, therefore, have continued with his investment despite any intervention.

I've thought about whether Halifax acted reasonably when it was made aware of the scam. Halifax haven't explained whether they tried to recover any funds, but Mr W confirmed the funds were sent to a wallet and an electronic payment platform account in his name before being forwarded to the scammers. So, Halifax wouldn't have been able to recover any of his funds and I don't think it treated him unreasonably here.

As payments were made using a debit card Halifax have explained that they may have, but didn't, consider making a claim to recover the funds through the chargeback scheme. That scheme, in this case, is administered by Visa, it isn't guaranteed to result in a refund, and I'd only expect Halifax to raise a chargeback if it was likely to be successful. As Mr W transferred the money to himself, he got the service he expected. The scam didn't occur until the money was sent to the scammer from the crypto exchange.  I don't, therefore, think a chargeback would have been successful and I don't think Halifax were unreasonable not to process one.

Ultimately, while I have sympathy for Mr W's situation, I can't fairly ask Halifax to reimburse his losses.

## My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 10 July 2025.

Phillip McMahon
**Ombudsman**