

## THE COMPLAINT

Mr N holds/held an account with Bank of Scotland plc trading as Halifax (“Halifax”).

Mr N’s complaint is about Halifax’s refusal to fully reimburse him money he says he lost due to a scam.

Mr N is represented by Refundee in this matter. However, where appropriate, I will refer to Mr N solely in this decision for ease of reading.

## WHAT HAPPENED

The circumstances of this complaint are well known to all parties concerned, so I will not repeat them again here in detail. However, I will provide an overview.

Mr N says he has fallen victim to a cryptocurrency related investment scam. He says a fraudster deceived him into making payments to what he thought was a legitimate investment. The payments in question – according to Halifax – are:

Payment Number	Statement Date	Beneficiary / Merchant	Method	Amount
1	05 February 2024	CRO	Card	£500.00
2	05 February 2024	FORIS MY LIMITED (Crypto.com)	Transfer	£1.00
3	20 February 2024	FORIS MY LIMITED (Crypto.com)	Transfer	£1,500.00
4	26 February 2024	FORIS MY LIMITED (Crypto.com)	Transfer	£1,000.00
5	01 March 2024	FORIS MY LIMITED (Crypto.com)	Transfer	£2,291.00
6	04 March 2024	FORIS MY LIMITED (Crypto.com)	Transfer	£10,000.00
7	04 March 2024	FORIS MY LIMITED (Crypto.com)	Transfer	£10,000.00
8	04 March 2024	FORIS MY LIMITED (Crypto.com)	Transfer	£10,000.00

9	11 March 2024	FORIS MY LIMITED (Crypto.com)	Transfer	£2,800.00
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Mr N disputed the above with Halifax. Halifax intervened in Payment 8, but it thought it could have done more to protect Mr N from Payment 7. Consequently, Halifax refunded Mr H £10,000 (minus 50% for contributory negligence); £10,000 (100%); and £2,800 (100%). This included 8% compensatory interest. Mr N was not happy with this partial refund and raised a complaint, which he also raised referred to our Service.

One of our investigators considered the complaint and did not uphold it – stating that Halifax’s refund was fair and reasonable. Mr N did not accept this.

As Mr N did not accept the investigator’s findings, this matter has been passed to me to make a decision.

### **WHAT I HAVE 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 find that the investigator at first instance was right to reach the conclusion they did. This is for reasons I set out in this decision.

I would like to say at the outset that I have summarised this complaint in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. If there is a submission I have not addressed, it is not because I have ignored the point. It is simply because my findings focus on what I consider to be the central issues in this complaint.

Further, under section 225 of the Financial Services and Markets Act 2000, I am required to resolve complaints quickly and with minimum formality.

### **Regulatory framework**

The regulations which apply in this matter are the Payment Services Regulations 2017 (“the PSRs”).

### **Should Halifax have recognised that Mr N was at risk of financial harm from fraud?**

It is not in dispute that Mr N authorised the payment transactions in this matter. Generally, consumers are liable for payment transactions they have authorised. However, that is not the end of the story. This is because even if a payment is authorised, there are regulatory requirements and good industry practice which suggest firms/banks – such as Halifax – should be on the look-out for unusual and out of character transactions to protect their customers from financial harm. And, if such payment transactions do arise, firms should intervene before processing them. That said, firms need to strike a balance between intervening in a customer’s payment to protect them from financial harm, against the risk of unnecessarily inconveniencing or delaying a customer’s legitimate transactions.

I have borne the above in mind when considering the payment transactions in this matter.

### **Payments 1 to 5**

I am not persuaded that Payments 1 to 5 were that unusual or out of character. I

acknowledge that they were cryptocurrency related in nature. However, I have weighed this against the value of the transactions and that they were not significantly out of line with normal spending on Mr N's account. For these reasons, I would not have expected Payments 1 to 5 have triggered Halifax's fraud detection systems.

## **Payment 6**

I am persuaded that Payment 6 was unusual and out of character. I say this because of the value of the transaction – which was significantly out of step with Mr N's account spending – and the fact it was cryptocurrency in nature. For these reasons, I would have expected Halifax to have carried out a 'human intervention' by way of telephone.

### **If Halifax had intervened in the way described, would that have prevented the losses Mr N suffered from Payment 6?**

I have explained why it would have been reasonable for Payment 6 to have triggered an intervention from Halifax. So, I must now turn to causation. Put simply, I need to consider whether Halifax's failure to intervene caused Mr N's losses. To do this, I need to reflect on whether such an intervention (described above) would have likely made any difference. Having done so, I am not persuaded that it would have. I take the view that, on the balance of probabilities, Mr N would have frustrated any attempt to intervene to protect him from financial harm – thereby alleviating any concerns Halifax had.

I have taken into account how Mr N responded during Halifax's intervention via telephone for Payment 8. I have relied on this as an indication as to what would have likely happened had Halifax intervened in Payment 6.

Halifax states that it could have done more during its telephone call with Mr N regarding Payment 8. Whilst I accept this point, I still must consider – if Halifax had done more, would this have made a difference? Having done so, I am not persuaded it would have. I say this for the following reasons:

- The investigator identified that Mr N had built a “*strong*” relationship with the fraudster – ‘Jesscia’ – over a two-month period before Mr N's call with Halifax. I have seen the WhatsApp messages between Mr N and the fraudster. Having considered them, I would say that not only did Mr N build a strong relationship with the fraudster during the period concerned, but he also developed a romantic one. Mr N would not only speak to the fraudster about everyday issues not related to the scam. He also expressed his love for the fraudster on several occasions, which the fraudster responded in kind. Based on the nature of the messages, I am persuaded Mr N was very much under the fraudster's spell at the time.
- The Halifax adviser during the call asked Mr N, *“I know it is your account but you don't have any traders on your shoulder telling you what to do. You're not being heavily coached or guided in the process of buying it just to clarify?”* Mr N answered, no.
  - Mr N's answer was not truthful, as the WhatsApp messages clearly show that he was being guided by the fraudster. For example, when Mr N told the fraudster Halifax had intervened, the fraudster said: *“You can call your banks, be tough, and tell them that investing in crypto is the way of the future. Now that BTC is in a rising phase, you want to buy some currency for storage. If the bank asks you whether it is your personal wish, you must forcefully tell it that it is your personal wish, otherwise the bank will find various reasons to reject you.”*

- During the same time, Mr N told the fraudster: *“Im still on the phone darling, getting things sorted. They [Halifax] are going through lots of stuff and suggesting you are a scammer <laughing and heart emojis> Xx.”*
- Mr N also did not mention to the Halifax adviser that he had met the fraudster via a dating app – despite the adviser asking Mr N if he had been enticed by an offer on social media, a friend or a phone call.
- Mr N also received credits from the scam prior to the intervention call. I have no doubt this would have made Mr N believe in the scam even more.

Taking all the above factors together, they suggest that had Halifax intervened in Payment 6 to try to protect Mr N from financial harm (in the way described above): it is likely Mr N would have frustrated this intervention – thereby alleviating any concerns Halifax had. For example, I find it likely Mr N would have consulted the fraudster if he encountered difficulties in making his payment.

Refundee submit, amongst other things, that if Halifax went further in its intervention, Mr N would have mentioned the platform, Coincarp, which would have raised concerns for Halifax. However, from what I have seen in the WhatsApp messages, Coincarp is first mentioned after Payment 8.

### **Recovery of funds**

I have considered whether Halifax acted appropriately to try to recover Mr N's funds once the fraud was reported.

### **Payment transfers**

Mr N's payment transfers were made from his Halifax account to crypto accounts in his name. Thereafter, those funds were either moved directly to the fraudsters, or, if not – Mr N should be able to withdraw them from his account. Further or alternatively, as Mr N's payments were made to purchase cryptocurrency – which would have been forwarded on in this form – there would not have been any funds to recover.

Further or alternatively, the likelihood that even if prompt action had been taken by Halifax on or immediately after the fraud was reported, any of Mr N's money would have been successfully reclaimed seems slim. I say this because of the time that had elapsed between Mr N's last payment (11 March 2024) and when Mr N reported the scam (27 April 2024). In these types of scams, fraudsters tend to withdraw/transfer out their ill-gotten gains immediately to prevent recovery.

So, I am satisfied that it is unlikely Halifax could have done anything to recover Mr N's payment transfers.

### **Card payment (chargeback)**

Chargeback is an entirely voluntary scheme, which means firms are under no formal obligation to raise a chargeback claim. The relevant scheme operator can arbitrate on a dispute between a merchant and customer if it cannot be resolved between them. However, such an arbitration is subject to the rules of the relevant scheme – so there are limited grounds on which a chargeback can succeed.

The service of purchasing cryptocurrency/exchanging funds into cryptocurrency – is not covered under the chargeback scheme concerned in this matter. This is because the

exchange(s) in question provided their services as intended. This also applies to any payment processor involved, as they would have carried out their services as intended when transferring funds.

For these reasons, I find that any chargeback claim in this matter had little chance of success under the relevant chargeback scheme. It follows that I would not have expected Halifax to raise one on behalf of Mr N.

### **Conclusion**

Taking all the above points together, I do not find that Halifax has done anything wrong in the circumstances of this complaint. Therefore, I will not be directing Halifax to do anything further.

In my judgment, this is a fair and reasonable outcome in the circumstances of this complaint.

### **MY FINAL DECISION**

For the reasons set out above, my final decision is that I do not uphold this complaint against Bank of Scotland plc trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 2 July 2025.

Tony Massiah  
**Ombudsman**