

The complaint

Ms B complains Bank of Scotland plc trading as Halifax won't refund money she lost when she fell victim to an investment scam.

What happened

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

Between 16 November 2023 and 9 February 2024, Ms B paid over £61,000 to what she believed to be a legitimate crypto investment, but which turned out to be a scam. As part of the scam, Ms B purchased crypto from two legitimate crypto exchanges, before transferring it on to the scammer. In total, Ms B made 22 transactions, which included both debit card payments and Faster Payments, ranging in value from £10 to over £8,000.

Ms B has told us she was being guided on her investments by someone she had met on a language learning app and developed a friendship with. Ms B believed that her initial investments were performing well, but she encountered difficulties when she sought to withdraw her profits. Ms B said she was told to pay various fees to withdraw her profits. She said she realised she'd been scammed when the scammer continued to demand additional fees and then lost his temper when Ms B questioned the additional fees.

Ms B asked Halifax for help recovering the money lost to the scam. It refused to reimburse her losses as it noted it had intervened on some payments, but Ms B was dishonest which prevented it from uncovering the scam.

Ms B remained unhappy and so referred her complaint to the Financial Ombudsman Service. Our Investigator didn't uphold the complaint. While she thought Halifax ought to have intervened sooner than it did, she was not persuaded that an earlier intervention would have prevented the scam as Ms B was dishonest in later interventions, which prevented the scam from being uncovered.

Ms B disagreed and asked for a final decision. She considered that Halifax ought to have recognised that by making payments to a crypto exchange, she was likely being scammed as she had no prior investment experience. She said it should also have been apparent from her calls with Halifax that she did not understand what was meant by a scammer. She considered Halifax should have taken steps to delay, stop or place limits on her transactions.

The case has now 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.

Having done so, I have reached the same conclusion as our Investigator and for largely the

same reasons. I realise this is not the outcome Ms B was hoping for. To be clear, I am in no doubt that Ms B has fallen victim to a cruel and sophisticated scam. But while I appreciate she has lost a considerable sum of money due to the scam, I must consider whether Halifax can reasonably be held responsible for that loss. Having carefully considered the available evidence, I'm not persuaded it is responsible. Because of this, I don't think Halifax acted unfairly by not refunding Ms B's loss. I will explain why.

It isn't in dispute that Ms B authorised the transactions in question. She is therefore presumed liable for the loss in the first instance. However, Halifax is aware, taking longstanding regulatory expectations and requirements into account, and what I consider to be good industry practice at the time, that it should have been on the look-out for the possibility of fraud and made additional checks before processing payments in some circumstances.

Indeed, Halifax did recognise that some of Ms B's payments posed an increased risk that they may relate to a scam. Halifax has provided evidence that it intervened on four occasions between 15 December 2023 and 21 January 2024. On each of these occasions Halifax's advisers spoke with Ms B to ask about her payment, and to provide her with scam education, but was ultimately reassured by her answers that she was not being scammed. Because of this, they went on to release the payments.

I agree with our Investigator that, based on the size and destination of Ms B's payments, Halifax ought to have intervened sooner than it did. For instance, I note that Ms B instructed a payment of £3,417.22 on 21 November 2023. In the circumstances, I think Halifax should have recognised that this payment was out of character for Ms B compared to her usual account activity and should have considered that there was a heightened risk that Ms B could be at risk of financial harm from fraud. I say this because the payment value exceeded (albeit marginally) the largest transaction Ms B had made from the account in the previous 12 months; it was identifiably going to a crypto exchange; and it was the third transaction to that exchange within a week and where the value of those payments was increasing exponentially. Given what Halifax knew about the prevalence of crypto scams at the time, I would have expected it to have intervened before processing this payment.

Similarly, I think there was a further opportunity for Halifax to have intervened on 1 December 2023. On this date Ms B made three payments that were again identifiably going to a crypto exchange. By the third payment, Ms B had transferred more than £12,000, which was again a significant change in behaviour for the account.

In the circumstances, and being mindful that crypto scams had become increasingly varied, I think a proportionate response to the identified risk would have been for Halifax to have attempted to establish the circumstances surrounding the payments before allowing them to debit the account. It could have done this by, for example, directing Ms B to contact it to discuss the payments.

Having established that I think Halifax ought to have done more, I must go on to consider whether I think a proportionate intervention from it, as I have described, would more likely than not have prevented Ms B's loss. In this case, I'm not persuaded it would have.

While Halifax did not intervene as early as I would have expected it to, it did intervene before processing later payments and its fraud team spoke with Ms B on four occasions over the space of six weeks. On each occasion, the fraud agent asked Ms B a series of questions about her transactions, including what the payments were for, and whether she was being helped, coached or guided with the crypto investment. Consistently across all four conversations Ms B revealed that she was investing in crypto, but crucially she repeatedly denied that she was being helped, guided or coached by anyone else.

Understanding whether anyone was helping or guiding Ms B was fundamental to Halifax understanding if she was falling victim to a scam or not. Halifax explained to Ms B that while it had no concerns if she had decided to invest in crypto based on her own research, if someone was managing the investment and/or advising her it would likely be a scam. Despite this Ms B never revealed that she was being guided by a third party. As a result, I don't think it was unreasonable that Halifax was unable to uncover that a scam was in fact taking place, and so I would not have expected it to take any further steps to delay or limit her transactions.

Nevertheless, Halifax did provide Ms B with warnings about the types of crypto scams it was seeing. It specifically advised Ms B that scammers may:

- make contact via messaging apps;
- advise consumers to purchase crypto and then transfer it out to another website which is actually run by fraudsters, at which point it becomes irrecoverable; and
- manually manipulate scam websites to show that crypto has been received so it appears genuine.

Despite all of these factors being relevant to what was happening to Ms B, she chose to go ahead with her payments, without taking any further steps to check what she was doing was legitimate.

Had Halifax intervened earlier in the scam, as I've outline above, I have no reason to believe Ms B would have responded any differently to Halifax's questions than she did when it did later intervene. So, I'm not persuaded Ms B would have revealed the existence of the person advising her – nor am I persuaded Halifax's scam warnings would have dissuaded her from going ahead with the payments any more so than they did when she was later warned about the scam risk. It therefore follows, that I am not persuaded that Halifax's failure to provide Ms B with an earlier warning resulted in her loss, as it seems most likely Ms B would have gone ahead with the payments in any event.

I've also considered whether, on being alerted to the scam, Halifax could reasonably have done anything more to recover Ms B's losses, but I don't think it could. The money transferred to the crypto exchanges was withdrawn from those platforms and transferred to the scammer - and so Halifax couldn't have recovered those funds. But if any funds did remain, then Ms B could've withdrawn them herself. And the only option for recovery for the debit card payments would've been for Halifax to have attempted a chargeback against the payee – that being the crypto exchange. But given the payment was for the purchasing of crypto with a legitimate firm, I don't think a chargeback claim would have been successful as Ms B received the service she paid for.

In conclusion, I have a great deal of sympathy with Ms B being the victim of what was clearly a cruel scam. But it would only be fair for me to direct Halifax to refund her losses if I thought it was responsible for them, but for the reasons I have explained above I'm not persuaded it was.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 16 July 2025.

Lisa De Noronha
Ombudsman