

The complaint

Mr B complains that Bank of Scotland plc, trading as Halifax, won't refund all the money he lost when he was the victim of a scam.

What happened

In March 2023, Mr B received a phone call from someone who said they worked for an administration company and could see the money he had lost due to a previous failed investment was being held in an account in his name. They suggested he contact a recovery company they gave him the details for, who could help return this money to him.

Mr B then contacted the recovery company, who said they could help recover the money he had previously lost. He was initially told he had to pay charges of £2,539 to cover the cost of removing the money from the account it was currently in – which Mr B paid. And over the following six months, the recovery company told Mr B he had to make a number of further payments to cover various other costs or fees related to returning the money to him.

I've set out the details of the payments Mr B made from his Halifax account below:

Dates	Details	No. of payments	Total amount
13 – 31 March 2023	To 1 st account details	3	£6,789.27
3 April 2023 – 11 May 2023	To 2 nd account details	19	£46,252.60
12 May 2023 – 7 June 2023	To 3 rd account details	12	£34,728
8 - 22 June 2023	To 4 th account details	11	£28,795
26 June 2023 – 13 July 2023	To 5 th account details	10	£27,399
17 July 2023 – 21 September 2023	To 6th account details	40	£119,859
22 September 2023	To 7 th account details	1	£1,000

Unfortunately, we now know the recovery company was a scam. The scam was uncovered after Mr B told a friend what was happening and the friend helped him visit the recovery company's address. When the company was no longer there, the friend tried to call a new phone number for it but was told by the person they spoke to that the recovery company was a scam. Mr B then reported the payments he had made to Halifax and asked it to refund the money he had lost.

Halifax investigated and agreed it could have done more to support Mr B before he made the payments. But it also felt Mr B could have done more to help stop the fraud. So it only agreed to refund part of the money he had lost. Mr B wasn't satisfied with Halifax's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They felt the amount Halifax had refunded was correct, so didn't think it should have to refund anything further. Mr B disagreed with our investigator, so the complaint has been passed to me.

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 think the amount Halifax has agreed to refund is fair, and so I don't think it should have to refund anything further. I'll explain why below.

In broad terms, the starting position in law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

Halifax is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This code requires firms to reimburse customers who have been the victim of authorised push payment scams, like the one Mr B fell victim to, in all but a limited number of circumstances. And it is for the firm to establish that one of those exceptions to reimbursement applies.

Under the CRM code, a firm may choose not to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made
- The customer made the payment without a reasonable basis for believing that:
 - o the payee was the person the customer was expecting to pay;
 - o the payment was for genuine goods or services; and/or
 - o the person or business with whom they transacted was legitimate

There are further exceptions within the CRM code, but these don't apply here.

Was Mr B vulnerable, under the CRM code?

The CRM code says that, where a customer is vulnerable, the bank should refund them in full – regardless of whether any of the exceptions to reimbursement apply. And it defines a customer as vulnerable if it would not be reasonable to expect them to have protected themselves from the particular scam they fell victim to.

Mr B has mentioned a number of personal circumstances and medical conditions that were affecting him around the time of the scam. And my intention isn't to diminish the severity of these circumstances and I don't underestimate the impact his conditions had on him. But, from what I've seen, he was still working regularly, managing his own financial affairs and was able to critically evaluate at least some parts of what was happening. So I don't think his circumstances were such that he was unable to protect himself from this particular scam.

And so I don't think he meets the definition of vulnerable from the CRM code, and I think the exclusions to reimbursement could still apply here.

Did Mr B have a reasonable basis for belief when making the payments?

Halifax has argued that Mr B didn't have a reasonable basis for belief when making these payments. And while I appreciate that he has been the victim of a cruel scam, I do think there were a number of things about what was happening and what he was told that should have caused him significant concern.

Mr B was initially contacted unexpectedly and by a company he'd never had any contact from previously. He was told they could help him recover money he lost from a previous failed investment, but the investment failed when the company he'd invested with went into liquidation and the recovery company doesn't appear to have suggested it was in any way connected to the liquidators or the formal administration or liquidation process the investment company was going through. So I think being contacted in this way by a company with seemingly no connection to his previous failed investment should have caused Mr B some concern.

When making the first payment to the recovery company, Mr B was told the money had to be sent to a different company – rather than either of the two companies he had spoken to at that point. But he doesn't appear to have been given a particularly plausible or convincing explanation for why this was the case, and he doesn't appear to have done any checks or been shown any evidence that the company he was paying was connected to either the recovery company or his failed investment. So I think being told to make the payment in this way should have caused him concern.

Mr B was also told the amount he had to pay should be split into several smaller payments, rather than paid all at once, as this allowed for increased security. But I don't think the explanation he was given for this was particularly plausible. He was also told banks could block the payments and cause delays, so he should tell his bank the payments were part of a routine business transaction. And when Halifax did block the first payment he tried to make and asked him about it, Mr B gave it incorrect information about the purpose of the payment and the circumstances surrounding it. And I think being asked to mislead his bank in this way should have caused Mr B significant concern.

I sympathise with the position Mr B has found himself in. And I appreciate that there were things about the scam that will have reasonably felt genuine to him, such as the invoices he was sent for each payment and the online account he was given access to showing his money. But I think there were a number of things here which should have caused him concern. And I think these things, particularly in combination, should have been enough to overcome the parts of the scam which felt genuine.

So I think Halifax has established that Mr B made the first payment here without a reasonable basis for belief that it was genuine.

As the scam went on, Mr B was then asked for more payments to cover more charges and fees. But he doesn't appear to have been told these charges and fees would be necessary when he first contacted the recovery company, so I think being continuously presented with more unexpected requests for payments should have caused him further concern. Some of the reasons Mr B appears to have been given for the additional payments were also for things I wouldn't expect a genuine business to charge their clients for, such as correcting mistakes he hadn't made on a form, securing the recovery company's system against potential illegitimate access and an anti-money laundering service. And in around a month Mr B had paid more than half of the total value of his failed invest to the recovery company, and in total he ended up sending the recovery company more than five times the value of the investment it was supposed to be recovering for him. And I think being asked to send this much money to recover an investment should have caused Mr B significant concern too.

So I think the scam only became less plausible as it went on. And so, as I don't think Mr B had a reasonable basis for belief when he made the first payment, I also don't think he had a reasonable basis for belief when making any of the later payments either.

So I think Halifax has established that Mr B made all the payments here without a reasonable basis for belief that they were genuine. Halifax has therefore established that one of the exceptions to reimbursement under the CRM code applies here, and it does not have to refund Mr B all the money he lost.

Did Halifax meet its obligations under the CRM code?

Even though I don't think he had a reasonable basis for belief when making the payments, Mr B may still be entitled to a refund of some of the money he lost if Halifax didn't meet its obligations under the CRM code – one of which is to provide effective warnings when it identifies a scam risk.

Halifax has accepted that it should have done more to protect Mr B when he was making all the payments here, and so didn't meet its obligations under the CRM code.

Where one of the exclusions to reimbursement applies, but a firm has also failed to meet its obligations, the CRM sets out the refund that a customer is entitled to. It says that, where one of the exclusions to reimbursement applies and the sending bank failed to meet its obligations but the receiving bank met its obligations, the customer is entitled to a refund of 50% of the money they lost. And it says that, where one of the exclusions applies and both the sending and receiving banks failed to meet their obligations, the customer is entitled to a refund of 67% of the money they lost.

Halifax has said that one of the receiving banks has accepted that it didn't meet its obligations under the CRM code in relation to the payments made to the sixth account details – highlighted in bold in the table above. But that the receiving banks have said they met their obligations in relation to the payments made to each of the other six account details.

So, under the CRM code, Mr B is then entitled to a refund of 66% of the money he sent to the sixth account details, and 50% of the money he sent to the remaining six other account details. And as Halifax has already refunded this amount to him, I don't think it would be fair to require it to refund anything further.

Did Halifax do enough to recover the money Mr B lost?

We expect banks to take reasonable steps to try to recover the money their customers have lost, once they are made aware of a scam.

Halifax contacted the receiving banks the payments were sent to and was able to recover some of the money Mr B lost. And this £2,452.08 has been returned to him.

And, from what I've seen, I don't think anything further I would reasonably have expected it to do have done would have led to any more of Mr B's money being recovered.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 March 2025.

Alan Millward
Ombudsman