

The complaint

Mrs S complains that Bank of Scotland plc trading as Halifax ('Halifax') won't reimburse the money she lost when she fell victim to what she believes to be a scam.

What happened

The detailed background to this complaint is well known to both parties and was set out in the investigator's view. So, I'll only provide a brief overview of some of the key events here.

Mrs S engaged a building company to complete a garage conversion for her. She spoke with the director of the company - "C" and some simple plans were drawn up and a quote agreed. Mrs S was asked to pay a 10% deposit so more formal plans could be drawn up and submitted. Mrs S paid £5,500 to C's business account on 14 December 2023.

Sometime later, and concerned with the lack of progress, Mrs S contacted the person who C had supposedly contracted with to draw up the plans and submit the planning application. Mrs S was told that the plans had been drawn up but not submitted as C had not made payment for them. It later came to light that C's company had gone into voluntary liquidation and Mrs S had lost the funds she'd paid to C for the deposit.

Mrs S then became aware of a number of other people that had been left in the same position by C and she reported what had happened to her to Trading Standards who confirmed they were conducting an investigation into the activities of C. She also reported what had happened to her to her bank, Halifax, and requested that it refund her the amount lost.

Halifax declined to offer Mrs S a refund. It said it didn't think that she had been the victim of a scam as she had paid a legitimate company that ultimately went into liquidation after facing financial difficulties. Halifax said that this meant Mrs S' circumstances amounted to a private civil dispute between her and C / C's company and not a scam that it should become involved in now.

Unhappy with Halifax's response, Mrs S brought her complaint to this service and one of our investigators looked into things.

The investigator who considered the complaint didn't recommend that it be upheld. They said that the CRM Code definition of an Authorised Push Payment ("APP") scam hadn't been met and Mrs S most likely had a civil dispute with C, so Halifax wasn't liable for Mrs S' loss.

Mrs S didn't agree with the investigator's findings and so the complaint has been passed to me for a final decision.

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.

In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

It's important to note that I am not deciding a dispute between Mrs S and C – I don't have the power to look into a complaint about C. My role is limited to deciding the dispute between Mrs S and Halifax. So, I need to decide whether Halifax acted fairly, when concluding that Mrs S's circumstances amounted to a civil dispute and not a scam.

It isn't in dispute that Mrs S authorised the payment that left her account. So, the starting position – in line with the Payment Services Regulations 2017 – is that she's liable for the transaction in the first instance. However, Mrs S says that she has been the victim of an Authorised Push Payment ("APP") scam and that C's intent from the start was to deceive her.

Halifax is a signatory to the voluntary CRM Code. This is a scheme through which victims of APP fraud can sometimes receive reimbursement from the banks involved. But the CRM code does not apply to:

"private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."

In other words, the CRM Code isn't a general protection for customers against non-receipt of, or defective, goods or services.

The CRM Code defines what is considered an APP scam and this includes where the customer transferred funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent. So, I can only apply the CRM Code to Mrs S' payment or consider Halifax's liability to her under the CRM Code, if I'm satisfied that the payment was made as part of an APP scam. This is different to a situation where C didn't fulfil the agreement with Mrs S due to, for example, the business failing, ill health, a breakdown in the relationship or dissatisfaction with the quality of the work - which would be considered a civil dispute not covered by the CRM Code.

To decide whether Mrs S is the victim of an APP scam as defined in the CRM Code I have considered:

- The purpose of the payment and whether Mrs S thought this purpose was legitimate.
- The purpose the recipient (C) had in mind at the time of the payment, and whether this broadly aligned with what Mrs S understood to have been the purpose of the payment.
- Whether there was a significant difference in these purposes, and if so, whether it could be said this was as a result of dishonest deception.

From the evidence I have seen, I'm satisfied Mrs S made the payment for building work. I haven't seen anything that suggests Mrs S didn't think this was a legitimate purpose. So, I've then gone on to consider the purpose C had in mind at the time he took the payment. After

careful consideration, I'm not satisfied there is enough evidence to conclude C didn't intend to act in line with the purpose agreed with Mrs S. I'll explain why below.

C's company had been a UK incorporated company for over 10 years, so it was a well-established company at the time Mrs S made her payment. It's also clear that the company had been operating legitimately for a number of years. There are lots of positive reviews for C's business online. And whilst I appreciate that the work Mrs S paid for wasn't started, C did arrange for the formal plans for the work to be drawn up. And I'm not persuaded this is indicative of an intent to scam. I understand that Mrs S believes that this was done to provide C with an air of legitimacy but there is no persuasive evidence that this is what happened. Businesses can fail or be mismanaged such that agreements are breached and agreed services aren't provided. Or relationships break down as work progresses. These scenarios amount to civil disputes which banks aren't responsible for. And whilst the work not being started and the company going into liquidation would clearly be unacceptable to Mrs S, this doesn't mean that her circumstances now meet the high legal threshold for this to be a scam where I would need to be satisfied that it was the C's intention to deceive her from the start.

So, whilst I acknowledge Mrs S's arguments that the work was not started, that isn't, in and of itself, evidence of this being a scam. The fact that C asked for formal plans to be drawn up suggests the opposite. There would've been no obvious benefit to C in arranging this had he intended to defraud Mrs S - it seems more likely that he would've "taken the money and run". And so, the fact that the formal plans were requested suggests to me that this wasn't a scam.

In addition to the above, whilst I am unable to share details about a third party and the nature of their relationship with their bank, the evidence I've seen regarding the beneficiary account, indicates that the tradesman's account was legitimate and the bank hasn't said it had any concerns about how the account was being operated prior to C's company going into liquidation. And, whilst I take on board that Mrs S's funds were not used to pay for the requested plans as she was told, I don't think it necessarily follows that Mrs S was deceived as to the purpose of her payment. Tradesmen often take deposit payments which they then use to pay for other things and customers payments aren't always allocated to their job alone – this is the nature of how this type of business is managed and run.

Overall, I must make my decision based on what I think is most likely to have happened. And, based on the evidence I've seen, I think it's more likely the tradesman here was attempting to operate a legitimate business but he had over-committed and his business faced financial difficulties and ultimately failed. I'm not persuaded that it is more likely than not that he set out from the beginning with the intent to defraud Mrs S. I acknowledge Mrs S's arguments that C took her money when he knew he wasn't going to be able to complete the work due to his business failing. But there is no persuasive evidence that this is the case. It is equally likely, if not more so, that C was hoping that his business would somehow stay afloat and the work would be able to go ahead.

I've also thought about whether Halifax should've done anything else to protect Mrs S. I haven't been provided with any evidence that shows me Halifax provided Mrs S with a scam warning when the payments were made here but I'm not going to go into detail on this because, given that I'm supportive of Halifax's decision to conclude this is a private civil dispute, there isn't any basis upon which any further intervention ought reasonably to have caused concern with the payments. So, I can't fairly criticise Halifax for not having done more in these circumstances.

I know this decision will be a huge disappointment to Mrs S. I appreciate how she feels about this case and about her payment being taken and the work not being completed. I sympathise with the position Mrs S found herself in and I'm in no way saying she doesn't have a legitimate grievance against the tradesman in question. But, for the reasons I've explained above, I don't think her circumstances meet the high legal bar for this to be a scam and because of this, I don't think it would be fair to hold Halifax responsible for the money she lost.

Overall, I'm not persuaded the payment Mrs S made to the tradesman is covered under the CRM code, or that Halifax should be required to refund the money Mrs S lost now.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 7 November 2025.

Emly Hanley Hayes
Ombudsman