

The complaint

Mr M is unhappy that Bank of Scotland plc trading as Halifax won't reimburse money he lost to a scam.

What happened

On 24 February 2025 I issued my provisional decision on this complaint. I wanted to give both parties a chance to provide any further evidence and arguments before I issued my final decision. That provisional decision forms part of this final decision and is copied below.

"What happened

Mr M works in the financial sector and in 2019 his colleagues recommended he make an investment by buying shares in a company I'll call 'F'. He visited what he believed to be F's website and completed a form about an investment. Mr M thought the information on F's website corroborated information he'd found online about the company.

Mr M was then contacted by someone claiming to be from an international brokerage firm I'll call 'A', who knew the information Mr M had submitted online to F and said they were conducting the investment process. A told Mr M that the maximum investment in shares in F was capped at £15,000. On 16 October 2019, using online banking Mr M made a payment of £15,756.65 from his current account with Halifax to his account with a firm I'll call T, which was based in the UK and specialised in foreign exchange transactions. Mr M then used T to send the money (converted to a foreign currency) to the international payee as instructed by A to purchase the shares in F.

Mr M says he believed, through his online account with A, that he was making a steady profit. Based on this he recommended the investment to his girlfriend and his parents.

In December 2019, A recommended that Mr M make a further, larger investment in F. On 11 December 2019 Mr M went to a Halifax branch to pay £30,939.37 to T. But I understand that T blocked the payment Mr M then tried to make as instructed by A. In January 2020, T tried to make the payment through a different foreign exchange provider. But when that firm asked him questions about the investment he says he then realised that he'd been the victim of a scam.

In September 2023 through a professional representative, Mr M complained to Halifax that it had not taken sufficient steps to protect him.

Halifax didn't uphold Mr M's complaint. In summary, it said:

- He'd previously made high value payments from his account and the October 2019 payment to T did not appear out of character, so it had no reasons to intervene with the payment.*
- Its branch manager had approved the December 2019 payment after completing its High Value Checklist ('HVC'). Due to passage of time it couldn't give further evidence of the HVC. It said it would have given a fraud leaflet to Mr M.*

- *It had not been able to recover the money sent to T, given Mr M had sent that money to A in October 2019. The Contingent Reimbursement Model ('CRM') did not apply in this case because Mr M had sent the money to an account in his own name.*

Unhappy with the outcome, Mr M brought his complaint to this Service. He described the scam's severe financial and mental impact on him, not least as he'd recommended the investment to his girlfriend and parents. In response to our Investigator's questions, Mr M said that T had not given him a reason for returning the payment of £30,939.37 to him.

Our Investigator looked into the complaint but didn't uphold it. In summary, she said:

- *She didn't think the October 2019 payment was sufficiently unusual or suspicious in appearance based on Mr M's normal account and payment activity. He hadn't interacted with Halifax before making the online payment to T and Halifax had not missed an opportunity to identify the payment related to a scam.*
- *It was likely Halifax had a discussion with Mr M in branch before making the December 2019 payment and Mr M went ahead anyway. She didn't think any additional intervention or warning would have made a difference. She said this because Mr M worked in the financial sector and seemed to have trusted his colleagues' recommendation and his own research into F. He was sufficiently confident in the investment that he'd recommended it to his girlfriend and parents.*
- *Halifax could not reasonably have recovered the money Mr M sent to T in October 2019, as he'd already passed the money to A.*

Mr M didn't agree and asked for an Ombudsman's review. In summary, he said:

- *He argues the October 2019 payment to T should have stood out as unusual and suspicious enough to warrant intervention. It was a far higher risk payment than the ones mentioned by the Investigator (which were payments to a credit card provider by direct debit and payments to HM Revenue & Customs 'HMRC'). Mr M's large payment to a currency broker was at greater risk of fraud or scam as compared with his earlier spending.*
- *Although he works in the financial sector, Halifax was the expert in the relationship and should have recognised the indicators of a scam. At the very least, Halifax should have prompted Mr M to take time to consider the investment and to do further due diligence.*
- *Halifax "fell short of its duties" specifically regarding the October 2019 payment to the scammers.*

What I've provisionally 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 am required to take into account relevant law and regulations, regulators' rules, guidance and standards, and codes of practice; and, where appropriate, I must take into account what I consider to have been good industry practice at the time.

In broad terms, the starting point at law is that banks and other payment service providers ('PSPs') are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account. And I have taken that into account when deciding what's fair and reasonable in this case.

It's not in dispute here that Mr M fell victim to a cruel scam. He accepts that he authorised the two payments he made to T, and then sent (or attempted to send) the money to the overseas companies as instructed by A, which he later found out was a scammer.

The starting point is that banks ought to follow the instructions given by their customers in order for their legitimate payments to be made as instructed. So Mr M is presumed to be liable for the loss in the first instance, in circumstances where he authorised the payments.

But I've gone on to consider whether Halifax should reasonably have taken any steps to intervene. As a matter of good industry practice, Halifax should have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there are many payments made by customers each day and it's not realistic or reasonable to expect Halifax to stop and check every payment instruction. There's a balance to be struck between identifying payments that could potentially be fraudulent, and minimising disruption to legitimate payments (allowing customers ready access to their funds).

Overall, taking into account relevant law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in October 2019 that Halifax should:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;*
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;*
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – as in practice banks including Halifax do.*
- for branch transactions, such as the one in December 2019, following the Banking Protocol where appropriate.*

Should Halifax have recognised that Mr M was at risk of financial harm?

Halifax accepts that it did not intervene in the online payment of £15,756.65 that Mr M made to T in October 2019. I've carefully considered whether Halifax should have identified that Mr M was potentially at risk of financial harm as a result of this payment, or otherwise have done more to protect him.

I've looked at Mr M's account statements for the 12 month period up to and including the October and December 2019 payments. I can see that Mr M's account balance was healthy, receiving regular credits. There were some substantial payments from his account in July and August 2019 for around £10,400 and £5,200 respectively to HMRC, together with a credit card payment for around £1,650 in September 2019.

Halifax has referred to these transactions as evidence that the disputed payment of £15,756.65 was not unusual or uncharacteristic for Mr M's usual account usage. But I don't agree. The HMRC and credit card payments went to established, readily identifiable payees. But the £15,756.65 payment on 16 October 2019 was made to a new payee as well as being for a much higher amount. It was made immediately after a bank loan for £16,500 was credited to his account. So I think Halifax should have identified that Mr M was at risk of financial harm as a result of the £15,756.65 payment and asked him further questions about it.

As I've said, Halifax should take steps designed to protect its customers from the risk of financial harm. And, in these circumstances and due to the size of the October 2019 payment, I think it would be reasonable to expect those checks to include questions about the purpose of the payment and how well the customer knew the company they were dealing with. I've not seen anything to suggest that Mr M had been told to lie about the purpose of the payment. So if Halifax had asked about it, I think Mr M would have told Halifax that the payment was for an investment in a company (F) using a broker (A), by way of a payment to T and then a foreign currency payment to an international payee.

I've also thought about the interaction in branch in December 2019. Halifax says its branch manager approved the transaction following completion of its "High Value Checklist" and this is supported by the contemporaneous account records. Mr M's own recollection is that he did discuss the December 2019 payment with staff and was asked to sign something. So I think it's likely, on balance, that he did go through the checklist with branch staff. But Halifax doesn't have a copy of the checklist now and I've not seen a sample copy of the checklist. So I don't know whether any of the questions it asked would have resonated with Mr M. Halifax has provided a copy of the fraud leaflet it says it would have given Mr M. But it's not clear to me that the fraud and scams described in that leaflet would have resonated with him, because they didn't describe scams such as the one to which he fell victim.

I've noted that on 6 December 2019 a warning about broker A was placed on the Investor Alerts Portal of the International Organization of Securities Commissions ("IOSCO"). This warning would not have impacted the October 2019 payment. It would have been in force at the point of the 11 December 2019 payment – but for only five days at that point.

In 2019 it was considered good industry practice for firms to have updated watch-lists with types of scams and potential fraudsters and for those watch-lists to be updated and communicated internally to staff within one month of an alert being posted by the FCA or IOSCO. So, even if Halifax had questioned Mr M about the payment and he had told it about A's involvement, I don't think Halifax's branch staff should reasonably have been aware of the alert or have refused to make the payment on the grounds of the alert.

I now need to consider whether any intervention would have prevented Mr M's loss.

Would any proportionate intervention in the payments have prevented Mr M's loss?

I don't currently consider it likely that any proportionate intervention by Halifax would have prevented Mr M's loss.

I say this because I think Mr M believed both in October and December 2019 that he had made a legitimate and lucrative investment. Mr M worked in the financial sector and colleagues had recommended he invest in F. He'd conducted his own research about F, including reviewing (what he thought to be) its website and had received what appeared to him to be authentic communications from the broker A. He was sufficiently persuaded by the investment to recommend it both to his girlfriend and parents who then invested themselves.

Although I don't know the full details of the intervention in December 2019, and how effective that was, it didn't dissuade Mr M from proceeding with a further investment. And I think from what happened next that it's not likely, on balance, that an effective intervention in October 2019 or December 2019 would have dissuaded Mr M from proceeding. I'll explain why.

In December 2019 Mr M transferred the money overseas as instructed by A. But in early January 2020 T returned Mr M's December payment to his account with T. When he made his complaint to Halifax, Mr M's representative said that T had blocked the December 2019 payment "due to concerns arising relating to A. T said this was likely a scam".

Despite this information, Mr M's correspondence with the fraudster shows he agreed to find another payment service provider to send his payment in line with the new payment instructions given to him by A. The new payment service provider then asked Mr M to send his correspondence with A about the investment. At that point the fraud was uncovered.

Given Mr M went ahead with the payment despite T telling him about its concerns with A, and that it was likely a scam, I don't think it's likely that any earlier intervention by Halifax would have prevented his loss.

I have taken into account that Mr M's later evidence to our Investigator about the December 2019 payment that he made from T to the fraudster conflicted with his earlier evidence. Mr M's representative said: "T would not give Mr M any information regarding why they refused to make the payment and did not alert him to anything untoward, therefore Mr M continued with what he believed to be a genuine transaction."

I think it's likely, on balance, that Mr M's earlier description of events is likely to be accurate. And, in any event, I think the refusal of a foreign exchange company to process a payment that Mr M thought was legitimate should reasonably have raised some questions in his mind. But Mr M has not said he made any further enquiries about either A or F at this point. Instead, he attempted to make the payment through a different foreign currency platform using the payment information provided to him by A. It was only when that firm asked him for information about the investment that he realised he'd fallen victim to a scam.

I don't intend to blame Mr M for falling victim to what was a cruel scam, which has understandably had a significant impact on him. But I don't think it's likely that any intervention would have prevented his loss. Mr M seems to have been satisfied through his own enquiries that this was a genuine investment opportunity and, given my comments above, I think it's likely he'd have still gone ahead. This means I can't fairly hold Halifax responsible for Mr M's losses.

My provisional decision

For the reasons I've explained, I don't intend to uphold this complaint."

Responses to my provisional decision

Halifax did not respond to my provisional decision.

Mr M responded through his representative to say he did not agree with my provisional decision. In summary, he said Halifax had failed him by not carrying out the necessary checks on the first transaction, which he agreed was out of character. Halifax has not shown the high-value checklist was completed or provided any sample of the questions it says it asked. Given Halifax's testimony conflicts with Mr M's recollections and it can't prove its actions, it should take at least partial liability in this matter. He added the following points:

- The investment was not recommended to him by his colleagues. F is a global plant-based food science company and he explained why he was personally aware of the brand. He'd visited F's website and saw the option to record interest in a potential Initial Public Offering (IPO), which is where a company first sells its stock to the public. So he was not working on the recommendation of a colleague but rather on his own research.
- His work within the finance industry is on the operational side and not within retail banking. As such, he shouldn't be expected to be educated about scams in the same way as Halifax's front line bank staff authorising high-value transactions. Halifax was

the expert in the relationship and should provide relevant due diligence and care to him.

- He agreed with my finding that intervention was required for the first payment and, had he been questioned, he would have been open and honest in his answers.
- He is adamant a high-value checklist was not completed. He accepts discussing the second, larger payment in Halifax's branch, but only briefly. He said he *"vividly remembers the visit to the branch and recalls the entire process being very quick and making the payment in around 2 minutes."* Halifax is relying on its branch notes as it can't prove that a high-value checklist was completed. He recalls signing a small slip of paper to authorise the payment but at no point was he asked in-depth questions about his transaction.
- Halifax hasn't been able to prove the relevant checks were carried out. He was not given any education about fraud and scams or materials such as leaflets. He makes a point to retain such information for his elderly relatives and didn't receive a leaflet. The branch staff didn't give him any education about the transfers and merely checked what the payment was for prior to the transfer. He was open and honest about his intentions but the staff didn't ask any probing questions to confirm there was no risk of a scam.
- If he'd been asked to do further due diligence on the first payment, there's a good chance he'd have identified the scam and his losses would have been prevented. When a bank did intervene, he did stop and did more due diligence. He then recognised the potential indicators of a scam and it prevented any further losses. He was clearly receptive to education and intervention from the bank.

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've carefully considered all the comments I've received from Mr M. Having done so, I'm not persuaded to depart from the conclusions that I reached in my provisional decision. I confirm those findings here for the reasons given in my provisional decision and below.

Mr M has told me that the investment in company F was not, in fact, recommended to him by colleagues. He says he had an interest in the company because of the product it produced and that's why he visited F's website and saw the IPO opportunity.

I've noted Mr M's comments though they seem inconsistent with what he'd said when first making his complaint to Halifax. I note that our Investigator asked about his colleagues' involvement, and Mr M's response was that none of his colleagues had invested with him, rather than saying they'd not been involved at all.

Even if M's colleagues were not involved this doesn't change my overall conclusion in this complaint. I say this because there are several compelling reasons for me to conclude that Mr M would likely have gone ahead with the investment even if Halifax had made an earlier intervention.

Mr M has explained that he works on the operational side of finance within investment banking, and as such does not have any relevant expertise in retail banking. He says Halifax was the expert in the transaction, and I agree with this.

There's no dispute that Halifax didn't intervene with the first payment. I've explained why I think Halifax should reasonably have asked Mr M questions about the purpose of the payment and how well he knew the company he was dealing with.

For the second payment, I have limited information about the questions Halifax asked Mr M beyond its contemporaneous records saying it completed its high-value checklist and gave him a fraud leaflet. Mr M says he doesn't recall the checklist and he's explained why he doesn't consider he was given a fraud leaflet. Even if he was, I don't think the information in that leaflet would have resonated with him.

Mr M believed that he was dealing with the genuine company F in which he had an existing interest and the IPO opportunity appeared to him to be plausible. He'd conducted his own independent research about the investment opportunity and the information he found appeared to display links between the broker A and F. I don't think that it's likely, on balance, that any proportionate intervention by Halifax would have prevented Mr M's loss. It seems to me that Mr M would have confirmed he was satisfied it was a genuine investment from his own research. Even if the investment wasn't one recommended to him by colleagues, he was sufficiently satisfied with his research to have recommended that his girlfriend and parents also invest in F.

Mr M has not commented specifically on my findings about his decision to go ahead with the larger international transfer from the foreign exchange platform T in line with the instructions he'd been given by A. Mr M decided to proceed with the transfer despite T's decision to block the transfer and its comments that this was likely a scam. I think this is significant. Even if Mr M's later testimony is correct, and he was not given a reason for T blocking the transfer, I think T's actions should reasonably have raised questions in his mind at this point. But instead he went ahead with the transfer using a different foreign exchange platform, which asked further questions when the scam came to light.

Having reviewed all the evidence again, and for the reasons given here and in my provisional decision, I remain satisfied that it's unlikely any earlier proportionate intervention by Halifax would have prevented Mr M's losses. So I can't fairly require Halifax to compensate Mr M either in full or in part.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 15 April 2025.

Amanda Maycock
Ombudsman