

The complaint

Mr M and Miss W complain that Bank of Scotland, trading as Halifax, won't refund the money they lost when they were the victims of what they feel was a scam.

What happened

In June 2021, Mr M met a woman on an online dating website. They started messaging and their relationship developed to the point where they were messaging a number of times each day and Mr M thought they were in a romantic relationship.

Throughout the period the messages were being sent, Mr M made a number of payments from his and Miss W's Halifax account to account details the woman gave him. And, as the woman has not paid the money back as he says he understood she would, he reported the payments to Halifax as a scam and asked it to refund them.

Halifax investigated but said the payments weren't so unusual as to cause its fraud systems to intervene. So it didn't agree to refund the payments Mr M had made. Mr M and Miss W weren't satisfied with Halifax's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think the available evidence was enough to support that this was a scam, so they didn't think Halifax should have to refund the payments. Mr M and Miss W 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 don't think it would be fair to require Halifax to refund the payments made out of Mr M and Miss W's account here. I'll explain why below.

Banks are expected to make payments in line with their customers' instructions. And Mr M accepts he made the payments here. So while I recognise he now feels he has been scammed by the woman he was sending the money to, he did authorise the payments. And so the starting position in law is that Halifax was obliged to follow his instructions and make the payments. So Mr M and Miss W aren't automatically entitled to a refund.

There are certain activities banks are expected to carry out to try to protect their customers from falling victim to scams, and certain protections in place for customers who do fall victim to scams. But, before looking at whether Halifax has done what we'd expect it to do or whether these protections apply, I must first be satisfied that Mr M and Miss W have been the victim of a scam.

The relevant test for whether someone has been the victim of a scam comes from the FCA handbook. This defines a scam as where a customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person. Or where

the customer transferred funds to another person for what they believed were legitimate purposes but were in fact fraudulent.

So in order to determine whether Halifax should refund the payments from Mr M and Miss W's account, I first need to consider whether they have been the victims of a scam – or, in other words, whether Mr M was deceived about the purpose of the payments to the point where he and the woman he was paying intended different purposes for the payments and the woman intended to defraud him.

I've thought very carefully about this and I think it's a finely balanced matter in this case. But where the evidence available is unclear or inconclusive, I must make my decision on what I think is likely to have happened, based on the evidence I do have.

From what I've seen of the communication between Mr M and the woman he made the payments to, it appears they met on a dating website commonly used by people looking for a compensatory relationship – where one person provides gifts and financial support to the other. And as the payments Mr M made to the woman broadly follow this pattern, I don't think this suggests he was deceived about the purpose of the payments.

But even if they didn't meet in this way and this was not the explicit purpose of the relationship Mr M thought he was entering with the woman, I still don't think the evidence suggests the circumstances here meet the relevant definition of a scam.

Throughout his communication with the woman that I've seen, Mr M sends her a number of unsolicited gifts – without her prompting him to send her anything. He also frequently sends her more money than she has asked for, and suggests she use this extra money to buy herself presents. So as Mr M sent at least some of this money without it being requested or agreed by the woman he was sending it to, I don't think he can have been deceived about the purpose of these payments.

Mr M and the woman also frequently exchange photos, videos and voice notes – separate from the payments Mr M makes. So it appears they had a relationship beyond just the payments Mr M made.

A large number of the payments the woman requests, and that Mr M then makes, are also supposedly to pay for day-to-day expenses such as food and utilities. But I haven't seen any evidence to suggest the money from these payments wasn't used for these things. And it seems unlikely that none of the money Mr M sent was spent on these kinds of day-to-day expenses.

Mr M also tells the woman on a number of occasions that some of the money he was sending was to help her further her education and find employment, and that he was not expecting her to pay this money back to him. And it's clear from their communication that the woman also understood that she wouldn't have to pay at least some of the money back to him. So I don't think I can say for sure what their financial arrangement was or how much money, if any, the woman should owe Mr M and Miss W.

I recognise Mr M has said the woman was misleading him about some of her circumstances and about her understanding of and intentions for their relationship. And I acknowledge that the woman failing to meet up with him on several occasions when they had planned to meet could suggest her intentions for the relationship weren't the same as his.

But, taking the information and evidence I have here as a whole, I don't think I can safely say that the circumstances here meet the high legal threshold and burden of proof for fraud or the specific definition of a scam I must apply here.

I appreciate how Mr M feels about this case, but I must make a decision on what I think is most likely to have happened. And I don't think the evidence I've seen shows the woman deceived him about the purposes of the payments or intended to defraud him. I think it's most likely both Mr M and the woman's intentions for the payments were the same – to continue their relationship. And that this is a personal dispute between them, following the breakdown of the relationship between them – which doesn't meet the definition of a scam from the FCA handbook.

So I don't think the circumstances here meet the definition of a scam from the FCA handbook, or that the protections in place for victims of scams apply here.

And so I don't think Halifax should be required to refund the payments made out of Mr M and Miss W's account.

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 M and Miss W to accept or reject my decision before 25 April 2025.

Alan Millward
Ombudsman