

The complaint

Mrs C says Bank of Scotland plc, trading as Halifax (“Halifax”), didn’t do enough to help when she fell victim to a scam. She says Halifax should reimburse the money she lost.

In bringing the complaint to our service, Mrs C has used the services of a professional representative. For ease, I’ll refer to Mrs C throughout the decision.

What happened

As both parties are familiar with the circumstances of this complaint, I’ve summarised them briefly below.

In summary, Mrs C fell victim to an investment scam in 2018. She made an international payment of £2,731.49 on 22 October 2018. Mrs C received some returns (£864) in February 2019, but then was told a software malfunction had caused a total loss to her investment.

Mrs C, through her representative, reported the matter to Halifax in December 2023 – to see if her funds could be reimbursed or recovered. Ultimately, Halifax didn’t consider it was liable for the losses Mrs C incurred. With regards to the recovery of any funds, Halifax were willing to see if the funds could be recovered but given the length of time, it was unlikely any funds remained, and the beneficiary bank was also no longer operational.

Unhappy with Halifax’s response, Mrs C brought her complaint to our service. Our Investigator reviewed the matter and didn’t recommend the complaint be upheld.

Mrs C disagreed with the Investigator’s opinion and thought more should have been done by Halifax to prevent her loss.

In short, Mrs C considered it was a large international payment, and while she had made international payments previously – it was still unusual, and Halifax ought to have intervened. Had it done, and asked the purpose of the payment and advised what checks she could carry out, then the scam would have likely been uncovered, as there was an FCA warning about the investment company published in September 2018.

As Mrs C disagreed with the Investigator’s opinion, and as the matter hasn’t been resolved, it’s 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.

In deciding what’s fair and reasonable in all the circumstances of a complaint, I’m required to take into account relevant: law and regulations; regulators’ rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

I'm aware that I've summarised this complaint and the responses briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here – which is to determine whether Halifax should have done more to prevent, or recover, Mrs C's loss. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as an alternative to the courts.

Having thought very carefully about Halifax's actions, I'm not upholding Mrs C's complaint. I do appreciate how disappointing this will be for her. Mrs C was the victim of a scam and is out of pocket as a result. But in weighing everything up, I don't think I can fairly say Halifax should reimburse her or be liable in some way. I'll explain why.

Before I go on to explain my findings, I want to clarify for Mrs C's benefit why the 'Contingent Reimbursement Model (often referred to as the 'CRM Code') isn't applicable in this case.

Why the CRM Code isn't applicable

The CRM Code was implemented to further combat and prevent the increase of fraud. But the CRM Code was implemented on 28 May 2019, and it isn't retrospective. As Mrs C's payment was made in October 2018 – the CRM Code isn't therefore applicable.

Also, even if the payment had been made after the implementation of the CRM Code, the CRM Code is explicit in that it only covers a transfer of funds executed across "*Faster Payments, CHAPS or an internal book transfer*" and those transfer of funds are "*...between GBP-denominated UK-domiciled accounts, by any channel of push payment available to the Customer, such as in branch, on the phone, or online*".

Here, the transfer Mrs C made was an international transfer which means it wouldn't have been considered under the provisions of the CRM Code in any event.

The relevant law and regulations in place at the time

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account.

It is the case that Mrs C authorised the transfer in dispute – and that's accepted by all parties. And under the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Mrs C is responsible for the transfer. That remains the case even though Mrs C was the unfortunate victim of a scam.

There are times when I might expect a bank to question a transaction or payment, even though it may have been properly authorised. Broadly speaking, firms (like Halifax) should fairly and reasonably have been on the lookout for the possibility of fraud in order to protect its customers from the possible risk of financial harm as a result of fraud and scams.

What does this mean for Mrs C?

In this case, I need to decide whether Halifax acted fairly and reasonably in its dealings with Mrs C when she made the transfer, or whether it should have done more than it did.

I've thought about this carefully. Having done so, I can't fairly say the international transfer Mrs C made would (or should) have alerted Halifax that Mrs C was potentially at risk of financial harm, to an extent whereby it should have carried out some additional checks before processing the payment. So, I don't consider Halifax are liable for the losses Mrs C incurred. I'll explain why.

I have to be mindful that banks process a high volume of transfers and transactions each day. And a bank has to strike a balance as to when it should possibly intervene on a payment against not holding up or delaying its customer's requests.

Here, I don't consider there is anything so unusual or remarkable about the transfer or the amount that ought to have alerted Halifax to the possibility Mrs C was being scammed or was at risk of financial harm. And while I appreciate it was a lot of money to Mrs C, the amount wasn't so significant that I would expect Halifax to carry out some additional checks on it.

While it was an international transfer, that in and of itself doesn't automatically mean that Mrs C was potentially falling victim to a scam. I am also mindful that Mrs C had made international transfers previously. She had made an international transfer of £9,835.17 on 26 June 2018 and for £900.40 on 2 October 2018. While I appreciate Mrs C's comments that these were to family members – she still had made international transfers before. So, when she made an international transfer on 22 October 2018, for £2,731.49, I can't fairly say that this was such unusual activity that would have given Halifax cause for concern.

So, I don't think there were grounds for Halifax to be suspicious Mrs C may be a victim of fraud when she made the payment. All things considered; I think the fact that Halifax didn't flag the payment as suspicious was fair and reasonable in the circumstances.

Recovery of the funds

I have also considered whether Halifax did all it could to try and recover the money Mrs C lost. There wasn't anything Halifax could do here unfortunately. All a bank can subsequently do (when it is notified that a payment or transfer is as a result of a scam) is reach out to the beneficiary bank in question and try to recall the payment / recover the funds. In this case, Halifax was prepared to do so, but realistically a number of years had passed since Mrs C made the transfer. So, there wasn't any prospect that the funds remained. And the beneficiary bank (the bank where the funds had been sent to) was also no longer operational. So, there was nothing Halifax could do to help Mrs C further.

Distress and inconvenience

Mrs C's representatives consider Halifax ought to pay £1,000 for the distress and inconvenience caused. I disagree. First, I am mindful that the distress and inconvenience caused to Mrs C stems from the scammer and Mrs C being the victim of the scam. And second, I don't find Halifax liable for Mrs C's loss as it couldn't have reasonably prevented her loss.

Summary

While I appreciate Mrs C has been the unfortunate victim of a scam, I think Halifax's decision not to refund her in this instance was fair and reasonable in the circumstances.

I say this because I'm satisfied Halifax followed Mrs C's instructions to make the transfer and I haven't seen any reason why it shouldn't have done this. And unfortunately, there wasn't anything further Halifax could do to help Mrs C recover the funds, given the length of time that had passed and that the beneficiary bank was no longer operational.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 16 April 2025.

Matthew Horner
Ombudsman