

The complaint

Miss A complains that Bank of Scotland plc trading as Halifax ('Halifax') won't refund a payment she made as part of a scam.

What happened

The background to this complaint is well known to both parties, so I won't repeat it in detail here. But in summary, I understand it to be as follows.

Miss A and her family had been carrying out renovations to their home. As part of these renovations, they were looking to install new windows. Miss A contacted a company (Company A) following a recommendation from the contractor that was already working on their property.

A member of staff from Company A visited Miss A's property in March 2022 to take measurements and discuss the goods they could supply. It was then agreed that Company A would provide the windows and Miss A's contractor would fit them.

Miss A paid a deposit of £6,800 for the windows to Company A on 31 March 2022. Miss A contacted Halifax on 26 July 2022 to raise a scam claim as she hadn't received the windows or a refund from Company A.

Halifax investigated the matter but deemed it to be a civil dispute. In their final response letter to Miss A, Halifax explained that the payment was made to a legitimate business and there wasn't enough information to show that Company A had any intention of scamming her.

Unhappy with this response, Miss A referred her complaint to our service.

An investigator looked into Miss A's complaint but didn't uphold it. The investigator said that they didn't think there was sufficient evidence to demonstrate Miss A had fallen victim to a scam and Halifax weren't liable to refund her.

Miss A and her representative disagreed with the investigator's findings and supplied further evidence and arguments, including the following:

- Company A had breached their contract.
- Company A failed to inform Miss A they wouldn't be providing the windows after taking payment and failed to respond to Miss A's correspondence.
- The purpose Miss A paid, and Company A received, the payment in question did not align.
- Company A failed to list Miss A's payment under the relevant section on their Companies House submissions.
- The director of Company A set up and dissolved 7 companies within the last 10 years.

As the complaint couldn't be resolved by the investigator it has been passed to me for a 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.

Miss A has provided detailed submissions to our service in relation to this complaint. In keeping with our role as an informal dispute resolution service, I will focus on the points I find to be material to the outcome of Miss A's complaint. This is not meant to be a discourtesy to Miss A and I want to assure her I have considered everything she has submitted carefully. 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 be good industry practice at the time.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence.

In broad terms, the starting position at law is that a bank such as Halifax is 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.

Halifax are a signatory of the Contingent Reimbursement Model (CRM) Code which requires firms to reimburse customers who have been the victims of authorised push payment (APP) scams in all but a limited number of circumstances.

The relevant part of the CRM Code definition of an APP scam requires that the payment was made to: *"another person for what they believed were legitimate purposes but which were in fact fraudulent."*

The Code also explains that it 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'*.

It's clear that Miss A made the payment in order to purchase windows for her property. So, I've gone on to consider what purpose Company A had in mind and whether that was in line with the purpose Miss A made the payment.

In reaching an answer on what purpose Company A had in mind, the key information I've considered is as follows:

- While I cannot disclose this information to Miss A, Company A's account statements show activity in line with what I would expect to see of a legitimate company of this type. In short, the account statements and account activity don't support Miss A's claim that she was the victim of an APP scam under the CRM Code
- Having read some of the correspondence, Company A explained they were having difficulty with their supplier, impacting the speed at which they could supply the windows to Miss A. I've seen no evidence to show that this is factually untrue and this could very well be a legitimate reason as to the delay in the supply of Miss A's

windows.

- Miss A first came into contact with Company A following a recommendation from the contractor who has been completing work on her property. Miss A trusted this source, and so it seems unlikely they'd have recommended a company which they did not believe to be trustworthy.
- We don't know the circumstances behind the dissolution of Company A's director's previous businesses and there could be a whole host of legitimate reasons for the companies being dissolved.
- An incorrect address being used on an invoice could simply be an administrative error and isn't, in and of itself, persuasive evidence Company A had set out to scam Miss A.
- Company A had been a UK incorporated company on Companies House since February 2014 and the nature of its business is marked as Construction of domestic buildings.
- Miss A has pointed to discrepancies in Company A's recording of their financial accounts on Companies House. I'm unable to say whether these records are correct or not. But, in any case, the financial mismanagement or failure of a business doesn't mean that Miss A's payment would meet the definition of an APP scam as per the CRM Code.
- I've been provided with no evidence from the police or Trading Standards which shows that Company A set out to defraud Miss A at the time of her payment.

Miss A says she believes Company A has committed fraud under the Fraud Act 2006. She has pointed to a number of their actions to demonstrate this. However, this isn't enough to say that at the time they took the payment, Company A never intended to provide the goods and services to Miss A.

Ultimately, Miss A made a payment for windows and the evidence supplied to our service doesn't sufficiently demonstrate that Company A didn't have the intention of supplying these goods at the time the payment was made. The failure to supply goods and services or breaches of contract aren't covered by the CRM Code; and I believe that to be the case in this instance.

Lastly, I've considered whether Halifax could've done any more at the time of the payment in order to prevent Miss A's loss.

I can see that Halifax intervened at the time of the payment and questioned Miss A regarding its purpose. Satisfied with the information provided by Miss A, Halifax allowed the payment to debit her account. I don't believe any information Halifax could've obtained from Miss A at the time of the payment would've suggested that she might be at risk of financial harm, so I can't fairly say Halifax could've prevented her loss at that time.

Overall, I'm not persuaded that Miss A has fallen victim to an APP scam, based on the evidence available. Should any material new evidence come to light at a later date, for example from Trading Standards or the police, Miss A can ask Halifax to reconsider her claim.

I appreciate this will be disappointing to Miss A, given the impact this situation has had on her, but I'm unable to say that Halifax are liable to reimburse her loss.

My final decision

My final decision is that I don't uphold this complaint against Bank of Scotland plc trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 16 June 2025.

Billy Wyatt
Ombudsman