

## **The complaint**

Mrs R is unhappy that Bank of Scotland Plc trading as Halifax won't refund payments she made because of a purchase scam.

## **What happened**

In summary, Mrs R looked into the possibility of investing in a new build property in another country. She carried out research on the development company involved and after doing so, decided to invest. She made her first payment on a card on 22 January 2019 and followed this up with 4 further payments between 12 February 2019 and 27 March 2019 through international transfers. She made payments totalling £16,970.

Mrs R said she met with the first development company in London, and they discussed the investment with her. She said she signed paperwork with them about it. She said she then sent a deposit to a second development company, also based in the UK, and there was a third company that was responsible for carrying out the development, based in the country that the build was taking place in. She made the 4 international payments directly to this third company. She said she realised something was not right when she stopped receiving contact or updates and it was at this stage that she stopped making payments.

Mrs R made a complaint to Bank of Scotland on 26 February 2024. Bank of Scotland replied that it didn't think it had done anything wrong. It said the payments were made and authorised by Mrs R and did not flag with its fraud systems, and so no interventions were carried out at any stage. It said it attempted to recall the international payments but were unsuccessful.

The investigator looked into things and didn't uphold Mrs R's complaint either. He said he didn't think Bank of Scotland should be required to provide a refund. He was not persuaded the payments Mrs R made carried a heightened risk of financial harm and they would not have appeared out of character. He said Mrs R had previously made larger payments than the ones complained about. He said if Bank of Scotland had intervened with Mrs R, she wouldn't have done anything differently and still would have gone ahead with the payments.

Mrs R was not happy with the investigator's outcome. She said the first payment she made with her card was not the company she had an agreement with. She said she reported this second company to Action Fraud. She said although she had made larger payments before, it was the first time she made payments to an international account. She said at no point did Bank of Scotland warn her or delay the payments whilst it investigated. She said Halifax signed up to a reimbursement code in 2019 and so it should refund her the payments through this.

Mrs R has asked for an ombudsman to look into her complaint, so it 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've reached the same outcome as our investigator for these reasons:

- The starting position in law is that Mrs R is responsible for the payments she made. And Bank of Scotland has a duty to make the payments she tells it to.
- But, as supported by the terms of the account, that doesn't preclude Bank of Scotland from making fraud checks before making payment. And, considering regulatory expectations and good industry practice, I'm satisfied that it should fairly and reasonably do this in some circumstances.
- I have first considered whether Mrs R was involved in a scam or whether the payments she made were at the time legitimate and she is instead involved in a civil dispute with the companies involved with this.
- Mrs R said she signed paperwork with the first development company that she contacted, and made the first payment, a deposit, for £2,500, to a second company that is still UK registered and advertises its services online. I can see that this is the case. Mrs R then sent 4 payments to a third company based in another country, through international transfers.
- I have read Mrs R's recollections and gone through emails that she has sent on to our service, detailing conversations between her and the first company. I can see that she was initially in contact with this company and it was through them that she decided to invest in a development in another country. She then made a payment to a second property development company, to pay a deposit, and at the time she said the first company told her it couldn't take a payment in the UK, so asked her to make the deposit payment through them. Then Mrs R made 4 payments directly to a third company, the company responsible for building the development in a different country.
- I can't be sure whether Mrs R has been scammed here or not, and whether it was the intention of any of the companies involved to defraud her of her money. It may well have been the case that at least one of the companies may have wanted to do this. It is also possible though that this is a civil dispute between her and any or all the 3 companies involved. Mrs R paid a deposit and then regular payments in exchange for a property. She hasn't, as far as I'm aware, received these payments back, and the property hasn't materialised either. So, I do have empathy with Mrs R about what has happened here and clearly, I can see that she is currently out of pocket for a significant amount of money.
- That said Mrs R's complaint with our service is not with the 3 companies mentioned, it is with Bank of Scotland, and it is the bank that I am looking into here to see if it ought to have done more when she made the 5 disputed payments.
- Ultimately, I don't need to make a finding about whether Mrs R has been scammed or not with the card payment or the 4 international transfers. This is because even if I did conclude she had been scammed for all the disputed payments, I wouldn't uphold her complaint anyway. This is because I don't think on balance Bank of Scotland has done anything wrong on this occasion. I will go on to explain why I have concluded this.
- Mrs R mentioned the Contingent Reimbursement Model that Bank of Scotland

signed up to on 28 May 2019, a voluntary code in relation to automated push payment scams. In the circumstances of her complaint though, the rules within this code don't apply. This is because all 5 of the payments she made happened before the code came into being and it didn't cover payments made on a card or international transfers. That said, Bank of Scotland still had obligations towards Mrs R as I have already described, and I have gone on to consider this.

- There's a balance to be struck between identifying and proportionately intervening in payments that could potentially be fraudulent, and minimising disruption to legitimate payments (allowing customers ready access to their funds). I think that it would be fair enough for Bank of Scotland to consider the wider circumstances of payments made, and look for unusual or uncharacteristic payments, or patterns of payments. Bank of Scotland said it had a fraud detection system that it uses to attempt to do this, but when Mrs R made her payments, its system didn't alert it that there was anything unusual with these payments. I have considered this and thought about whether Bank of Scotland ought to have intervened or not at any stage, based on the amounts, Mrs R's account history, and the nature of the disputed payments.
- Looking at Mrs R's account history, I'm not persuaded these payments appeared so uncharacteristic that Bank of Scotland ought to have suspected she was falling victim to a scam. They were over the course of two months; There wasn't a worrying or unusual pattern for the payments she was making, and although two of the payments were £5,000 each, Mrs R had made similarly sized and larger payments previously.
- I acknowledge Mrs R's comments that this was the first time she had made international transfers, but I think it ought to have looked at several different issues in the round. Given the value of the payments and how they were broadly in keeping with Mrs R's previous spending, I don't think it's enough to say the payments looked significantly uncharacteristic or risky on this occasion. I don't think the payments she made were unusual enough that Bank of Scotland ought to have done more here.
- In addition, I also agree with what has been said by the investigator up to now, that even if Bank of Scotland were to have intervened at any stage, Mrs R would have carried on and made the payments anyway. At the time she did so, there were no concerns about what she was paying for. It was only after she made the payments that she had concerns, due to a lack of updates on progress.
- I do appreciate how disappointing this will be for Mrs R, after reading what has transpired and I am sorry that this has happened to her. It is clear from what I have read that she is out of pocket to a significant amount, and matters are unresolved with the property development companies involved. But for the reasons I've explained I don't think her losses can be attributed to something Bank of Scotland did wrong. So, I don't uphold her complaint.

## **My final decision**

For the reasons I've explained, my final decision is that I do not uphold Mrs R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 21 October 2025.

Mark Richardson

**Ombudsman**