

The complaint

Ms P is unhappy that Bank of Scotland plc trading as Halifax haven't refunded money she lost as a result of a scam.

Ms P is being represented by a professional representative but for ease of reading I'll only refer to Ms P in the decision.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In the summer of 2023 Ms P came across an advert on social media that had a celebrity endorsement. Ms P registered her interest and was contacted by someone from the merchant. Ms P decided to start investing. She was told by her 'account manager' from the merchant that she should download a screensharing software to help them move her money to the merchant. Ms P started making payments from her Halifax account to another one of her accounts with a bank I'll refer to here as E. In total she sent around £124,300 to E before the money was forwarded to a genuine crypto exchange.

When Ms P realised she had been scammed she contacted Halifax to raise a claim. But Halifax said it hadn't done anything wrong – so it didn't offer her a refund. As a result, Ms P brought her complaint to this service.

Our Investigator didn't think the complaint should be upheld. She said that Halifax stopped five of the payments Ms P made to E and provided reasonable interventions. But Ms P provided misleading answers to Halifax's questions which meant Halifax wasn't able to narrow down the scam risk and uncover the scam.

Ms P disagreed and asked for an Ombudsman's review. She said Halifax should've intervened more effectively and asked open probing questions so as to avoid foreseeable harm to her under the Financial Conduct Authority's Consumer Duty. She added that it should've invoked the Banking Protocol on the £10,500 on 13 September 2023.

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'm sorry Ms P has been the victim of a scam, and I don't underestimate the impact this has had on her. But I must consider whether Halifax is responsible for the loss she has suffered. And while I realise this isn't the outcome Ms P is hoping for, for similar reasons as our Investigator, I don't think it is. I therefore don't think Halifax has acted unfairly by not refunding Ms P's loss. I'll explain why.

It isn't in dispute that Ms P authorised the payments here. And, under the Payment Services Regulations 2017 and the terms of her account, Halifax are expected to process the payments and Ms P is presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for Halifax to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

Halifax asked Ms P information about the payments before processing them. But she doesn't think it went far enough here – and that if it had delved more deeply, her loss would've been prevented.

So, the starting point here is whether the instructions given by Ms P to Halifax were unusual enough to have expected further questioning being carried out before the payments were processed. But I must keep in mind that Halifax processes high volumes of transactions each day; and that there is a balance for it to find between allowing customers to be able to use their account and questioning transactions to confirm they're legitimate.

Overall, I can see Halifax stopped some of the payments. Ms P has argued that Halifax could've gone further here. But I don't agree. I'll explain why.

When Halifax did speak to Ms P it asked her for her reasons for opening the account with E and why she was sending money to that account. It also asked why she had taken out the loans. Ms P initially said that she had recently opened the account and wanted to put some money in it to pay shopping and bills. She then in later calls said that she was paying for home improvements by taking out loans and that she was using E because it was easier for her to do so because she wanted to keep it separate from her Halifax account that was used for day-to-day direct debits. She confirmed on more than one occasion that she opened the account by herself without any third parties being involved. Halifax asked more than once if she had been asked to move the money out of the account by anyone (mentioning whether she had been promised returns on an investment) and to lie to the bank about the reasons for making the payments which Ms P denied was happening here.

Halifax asked in the first call if Ms P had downloaded any software which would allow someone else to take control of her phone. She denied that she had downloaded any such software and that her manufacturers software was up to date. She then confirmed that any such software wasn't related to the payment she was making.

Ms P argues that Halifax should've reasonably suspected she was being scammed based upon her answers - specifically her being unable to confirm the interest rate on the new account, saying the account was opened to save some money and help with her children's properties and in relation to screensharing software. But I don't agree. From listening to the calls Ms P was clear with her answers and never once mentioned that she was investing. After listening to the calls, I don't think her answers were so inconsistent that it should've made Halifax suspicious so that it should've taken further action. She never told Halifax that the reason she was making the payment was for an investment and repeatedly said no third parties were involved in her sending the money nor had anyone told her to lie to the bank about the reasons for moving money to E. That's despite telling this service that the scammer told her about banks being resistant to crypto which is why she used the home improvement reasons for moving her money and taking out the loans.

So, on balance, even if Halifax asked outright if Ms P was investing and provided some warnings about doing so, I don't think this would've made a difference. That's because when Ms P sent the payments from E to a genuine crypto exchange, E stopped and spoke to her

to ask why she was making the payments. Ms P said she was investing the money and that no one else was involved in her sending the money to the crypto exchanges. She said she had checked the firm on the FCA's database and that it was her financial advisor who had spoken to her about the investment. E then warned her about investment scams, being promised huge returns, adverts on social media (naming the same social media platform Ms P discovered this scam on) and that any investment involving an account manager are scammers manipulating people to make an investment. I've also noted that Ms P provided misleading answers to E about the reasons for her payments to a crypto exchange which again persuades me that Ms P was prepared to lie and deflect any questions she was asked about third parties being involved in her decision to invest and move her money.

As a result, I don't think Halifax could've reasonably uncovered the scam. Ms P was happy to provide misleading answers to the bank to distract and deflect from the real reasons she was sending the money. So, I think any further questions Halifax could've asked, which Ms P has mentioned, would've been met with the same responses. And there's evidence that she didn't listen to warnings about crypto investment scams from E. Nor do I think there was enough happening here for Halifax to have gone further and asked her into branch based upon what was happening based upon the responses Ms P was giving which were inaccurate and purposely provided to stop Halifax from detecting that there was anything potentially fraudulent about her payments.

Recovery

Here, it wouldn't have been possible for Halifax to recover Ms P's money here as we know that she moved the money from E to a genuine crypto exchange.

I'm sorry to hear about what happened to Ms P before this scam occurred. But I'm afraid as Halifax wasn't reasonably aware of the issues she was dealing with, I can't say it treated her unfairly here.

I have a great deal of sympathy for Ms P and the loss she's suffered. But it would only be fair for me to direct Halifax to refund her loss if I thought it was responsible – and I'm not persuaded that this was the case. For the above reasons, I think Halifax hasn't acted unfairly and so I'm not going to tell it to do anything further.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 29 September 2025.

Mark Dobson
Ombudsman