DRN-5576022

THE COMPLAINT

Mr A holds/held an account with Bank of Scotland plc trading as Halifax ("Halifax").

Mr A's complaint is about Halifax's refusal to reimburse him money he says he lost due to a scam.

WHAT HAPPENED

The circumstances of this complaint are well known to all parties concerned, so I will not repeat them again here in detail. However, I will provide an overview.

Mr A says he has fallen victim to a cryptocurrency related investment scam. He says fraudsters deceived him into making payments to what he thought was a legitimate investment.

I do not intend on setting out a detailed list of all the payments in question. I say this given the volume and the fact that neither party in this matter has disputed the list of transactions the investigator at first instance set out in their assessment. Instead, I will provide a summary. The transactions concerned appear to be:

- Around 60 in total.
- Made between December 2023 to around May or July 2024 (the final payment towards the scam is not entirely clear).
- Payment transfers.
- Made from two of Mr A's Halifax accounts (current and savings).
- Made to various accounts in Mr A's name (Revolut, Wise, Chase, Starling) – save for one which was made to LBG LOAN.
- Ranging from approximately £100 to £10,000.

(In addition to Mr A's Halifax account, he also funded the scam from various other accounts in his name.)

Mr A disputed the above with Halifax. When Halifax refused to reimburse Mr A, he raised a complaint, which he also referred to our Service.

One of our investigators considered the complaint and did not uphold it. In summary, the investigator thought that Halifax had done enough in the interventions it carried out in Mr A's payments. They also thought had Halifax carried out further interventions, this would not have likely made a difference in the circumstances. Mr A rejected the investigator's findings.

As Mr A did not accept the investigator's assessment, this matter has been passed to me to make a decision.

WHAT I HAVE 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 find that the investigator at first instance was right to reach the conclusion they did. This is for reasons I set out in this decision.

I would like to say at the outset that I have summarised this complaint in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. If there is a submission I have not addressed, it is not because I have ignored the point. It is simply because my findings focus on what I consider to be the central issues in this complaint.

Further, under section 225 of the Financial Services and Markets Act 2000, I am required to resolve complaints quickly and with minimum formality.

Regulatory framework

The regulations which apply in this matter are the Payment Services Regulations 2017 ("the PSRs").

Contingent Reimbursement Model (CRM) and APP scam reimbursement rules

It appears that the funds concerned from Mr A's Halifax account went to other accounts in his name before they were forwarded to the fraudster. For these reasons, the CRM code does not apply in this matter. For the sake of completeness, Mr A's payments would not be covered under the APP scam reimbursement rules either.

Should Halifax have recognised that Mr A was at risk of financial harm from fraud?

It is not in dispute that Mr A authorised the payment transactions in this matter. Generally, consumers are liable for payment transactions they have authorised. However, that is not the end of the story. This is because even if a payment is authorised, there are regulatory requirements and good industry practice which suggest banks – such as Halifax – should be on the look-out for unusual and out of character transactions to protect their customers from financial harm. And, if such payment transactions do arise, firms should intervene before processing them. That said, firms need to strike a balance between intervening in a customer's payment to protect them from financial harm, against the risk of unnecessarily inconveniencing or delaying a customer's legitimate transactions.

I have borne the above in mind when considering the payment transactions in this matter.

Halifax intervened in some of Mr A's payments to try to protect him from financial harm. I intend on dealing with these interventions first. I will then address the payments Halifax did not intervene in later in this decision under the heading: *Should Halifax have exercised further interventions in relation to Mr A's other payments?*

What interventions did Halifax carry out?

Halifax intervened in three of Mr A's attempted payments. This resulted in Halifax and Mr A speaking over the telephone on the below dates:

- 23 January 2024
- 26 January 2024

- 23 May 2024

Were Halifax interventions proportionate?

£10,000 to Mr A's Wise account (23 January 2024 call)

The adviser questioned Mr A about this payment. Mr A confirmed that he had his Wise account for about two years and, "*I'm trying to build up erm for an investment*".

The adviser informed Mr A that there was potential malware on his mobile phone and asked him wither he had downloaded any remote access technology. Mr A said no and stated:

"Why would I let somebody to look in my phone?" "That's scary." "Jesus no, not to the best of my knowledge I've got erm well apps that I do various things with, but not one that has … that gives access to someone [sic] *my phone*"

The adviser suggested that Mr A have his mobile phone looked at. The adviser also asked Mr A whether he had been contacted by a third party and told to lie to Halifax – Mr A answered no. The adviser provided Mr A with warnings relating to people contacting him about investments and asking him to download software to see his screen. Mr A denied that this had happened.

£9,700 to Mr A's Revolut account (26 January 2024 call)

When questioned about this payment, Mr A said it was for home improvement. The adviser provided Mr A with an investment scam warning and said that scammers can pretend to be investors. The adviser also asked Mr A whether there had been any third party involvement. Mr A responded with no and said, "*I wouldn't entertain that*."

£2,000 to Mr A's Revolut account (23 May 2024 call)

Mr A told the adviser that the purpose of this payment was for home improvements. When asked whether he had been told to download any apps – Mr A said no. The adviser stated that she was going to ask Mr A a series of questions and that he should answer honestly:

- Adviser: "*Anyone asking you to lie to the bank or be dishonest will always be a scammer then as well.*"

- Mr A: "*I can imagine, yeah, yeah*."

- Adviser: "*Has anyone been in contact with you regarding any investment opportunities – like get rich quick schemes, or bitcoin*?"

- Mr A: "*I'm near my retirement, so* <laughs> *you wouldn't get that through me*."

- Adviser: "*Has anyone asked you to lie to the bank about the reason why you are transferring this £2000 today*?"

- Mr A: "*No, I wouldn't do that, sorry, no*."

In summary

By and large, I find that Halifax's interventions were proportionate – particularly when weighed against the misleading answers Mr A provided. Although I do take the investigator's point that the adviser in the first call could have questioned Mr A further about his investment.

However, even if it could be argued that Halifax should have gone further in any of the interventions mentioned, I am not persuaded this would have made a difference. Mr A was determined to make his payments – appearing confident during the calls and providing the answers necessary to get his payments over the line. For example, denying third party involvement, and the fact he had downloaded AnyDesk and had been instructed to lie by the fraudster.

This is supported by telephone calls Mr A had with Lloyds about payments in connection to the scam. Those calls took place around the same time as Mr A's calls with Halifax. In the Lloyds calls, Mr A provided misleading answers about his payments as well.

I have considered WhatsApp messages exchanged between Mr A and the fraudster. In those messages, there are several examples of Mr A seeking guidance from the fraudster on what to say/do during interventions in his payments with various banks/firms. In one example, Mr A provides the fraudster with intervention questions from a bank/firm – whereby the fraudster guides Mr A on how to answer them.

Further or alternatively, I take the view that even if Halifax refused to process the payments concerned – which I am not concluding was necessary – Mr A would have found another way to make them. This is supported by the fact that Mr A used several different accounts to fund the scam.

I acknowledge that it appears Mr A was under the spell of the fraudster at the time of the calls. However, I cannot ignore the fact that Mr A misled Halifax on several occasions which, to my mind, seriously frustrated its attempts to protect him from financial harm – thereby alleviating Halifax's concerns about Mr A's payments.

Taking all the above points together, I find that during each of the calls concerned, Halifax's interventions were proportionate to the risks identified – particularly when weighed against the misleading answers Mr A provided.

Should Halifax have exercised further interventions in relation to Mr A's other payments?

Given the volume of payments in this matter, I have not attempted to identify individual trigger points. Instead, I have taken a holistic approach when considering the payments. Having done so, I think an argument could be made to suggest that some of these payments should have triggered interventions. Whilst this may be arguable – my view is that such interventions would have been few and far between. I say this because as Mr A continued to make payments to the accounts concerned, without any issues, they would have become 'established'. Further, I can see significant spending on both of Mr A's Halifax's accounts, so much of the scam payments would not have appeared out of character or unusual for his accounts.

In any event, I am not persuaded that had Halifax carried out further interventions these would have made a difference. I have not seen anything to suggest that Mr A would not have responded the same way he did during the interventions mentioned above.

Recovery of funds

I have considered whether Halifax could have done more to recover Mr A's funds once the fraud was reported.

Mr A’s payment transfers were made from Halifax to various accounts in his name. Thereafter, those funds were either moved directly to the fraudster, or, if not – Mr A should be able to withdraw them from his accounts.

So, I am satisfied that it is unlikely Halifax could have done anything to recover Mr A’s funds.

Compensation for distress and/or inconvenience

I note Halifax says in its final response letter that it has paid Mr A £150 due to its delay in providing him an outcome. I find this to be fair and reasonable in the circumstances. Any further distress and/or inconvenience Mr A has suffered in this matter is a result of the fraudster’s actions – not Halifax’s.

Mr A’s response to the investigator’s findings

Mr A raised several different points in response to the investigator’s findings – the majority of which are dealt with by my findings above. However, there are two points which I would like to address here. First, Mr A contends that there is an inconsistency in approach from financial institutions in terms of the scam he has fallen victim to. For example, Mr A says he has received a refund from a bank/firm. Secondly, Mr A says he is experiencing financial hardship because of the scam.

Regarding the first point, I am unable to comment on another financial institution’s decision to refund Mr A. In this decision, I am considering whether Halifax acted fairly and reasonably. Regarding the second point, whilst Mr A has my sympathies – unfortunately, his financial difficulties do not have any bearing upon my consideration of Halifax and the scam.

Here are the names of some organisations which might be able to assist Mr A with his financial difficulties: Citizens Advice, StepChange and National Debtline.

Conclusion

Taking all the above points together, I do not find that Halifax has done anything wrong in the circumstances of this complaint. Therefore, I will not be directing Halifax to do anything further.

In my judgment, this is a fair and reasonable outcome in the circumstances of this complaint.

MY FINAL DECISION

For the reasons set out above, my final decision is that I do not uphold this complaint against Bank of Scotland plc trading as Halifax.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr A to accept or reject my decision before 18 June 2025.

Tony Massiah
Ombudsman