

The complaint

Mrs C complains Bank of Scotland plc trading as Halifax won't refund payments made as part of a scam.

What happened

Mrs C was looking to take out a loan and after searching online, she found a company I'll call "H". After completing an online application, she said she received contact from H explaining she needed to pay a set-up fee of £299 using an e-money provider I'll call 'R', which she agreed to. Shortly after, she carried out further checks and saw multiple adverse reviews about H. She referred back to H asking to cancel the application and refund her money. H said to do that, she would need to authorise the refund but after approving what she thought was a refund in her banking app, she discovered another payment to R for £299 had debited her account. After realising she'd been scammed, Mrs C then reported the scam to Halifax.

Mrs C said initially she was told by Halifax it could help her, only for it later to say it couldn't. And as it didn't refund her, she raised a complaint. Halifax issued its final response letter to Mrs C where it said it couldn't refund or recover her loss but paid £30 compensation to recognise its poor customer service. Unhappy with its response, Mrs C referred her complaint to our Service.

One of our investigators looked into Mrs C's complaint but didn't uphold it. They said the payments were authorised by Mrs C and as Halifax couldn't have stopped or recovered her loss, it hadn't acted unfairly. They also considered Halifax's £30 compensation award fair to recognise poor customer service. Mrs C didn't agree. In summary she said this had left her mentally stressed, and this money is a lot to her and the only person that loses here is her.

As Mrs C didn't agree, the matter was passed to me to decide. I issued a provisional decision where I didn't uphold this complaint. In summary I said Mrs C authorised the first payment, and it was fair for Halifax to have treated the second payment as authorised given the representation Mrs C gave it. I further said Halifax couldn't have done more to have stopped or recovered Mrs C's loss, and that the £30 compensation award was fair to recognise poor customer service. Mrs C didn't agree. She said Halifax didn't protect her saying they could refund her and then saying they couldn't, and it's not fair she lost this money.

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, and having considered Mrs C's response, I still don't uphold this complaint. I'll explain why.

Did Mrs C authorise the payments?

In line with the Payment Services Regulations 2017 ("PSRs"), the relevant legislation here,

the starting position is that Halifax is liable for unauthorised payments, and Mrs C is liable for authorised payments.

For a payment to be authorised, it must be consented to by Mrs C or someone acting on her behalf. This consent must be given in the form and in accordance with the procedure agreed between Mrs C and Halifax. In practice this is set out in the applicable terms and conditions, though Halifax's terms and conditions at the time these payments were made aren't clear on how consent is given for online card payments.

For these payments to have been made, it appears that Mrs C's card details would have been needed to give payment instructions on R's website. Also, from the technical evidence provided, the payments also required 'stronger authentication' where they required approval in her banking app.

It isn't in dispute that Mrs C authorised the first payment to R. Given how the scam unfolded, it would seem here that Mrs C shared her card details with the fraudster where she believed she was making a payment for a set-up fee for the loan she thought she was taking out. And whilst it appears it was the fraudster that initiated the payment on R's website using her card details, it was Mrs C who approved it in her banking app. She's told us she did so believing a payment was being made for the set-up fee for the loan. Whilst she was tricked into thinking she was making a legitimate payment, she understood that by pressing approve in her banking app the payment would leave her account. So in line with the PSRs, the first payment would be considered as having been authorised by Mrs C.

Turning to the second payment to R, Mrs C said she didn't authorise a second payment to debit her account as on the second occasion, she was tricked into approving the prompt in her banking app for what she thought was a refund. This appears to be after the payment was initiated again by the fraudster on R's website using her card details.

But, to determine whether it's fair and reasonable for Halifax to treat the payment as authorised, I've taken into account that Mrs C did verify herself by logging in to her banking app before approving the second payment. She accepts approving the prompt in her app. So I've reviewed the payment screen Halifax said would have been presented to her.

Having done so, I can see Mrs C was presented with a payment screen that made it clear a payment was being made. There was a heading that was titled 'approve this payment' and it included the amount, the merchant's name and it gave her the option to press 'approve' or 'cancel'. Here, Mrs C clicked approve.

I appreciate Mrs C didn't intend to lose money and was ultimately tricked under false pretences to click approve. But, I think that by doing this, Mrs C made a representation to Halifax that the payment instruction was made by her or someone acting on her behalf.

Further to that, the clarity of the screen about what Mrs C was confirming meant that it was reasonable for Halifax to rely on this representation and process the payment. So for these reasons, I think that it's fair for Halifax to treat the second payment as authorised and so the starting position is that Mrs C is liable for her loss.

Should Halifax have identified Mrs C was at risk of financial harm?

There are circumstances when it might be appropriate for payment service providers to take additional steps before executing a payment transaction. Having taken into account longstanding regulatory expectations and requirements, and what I consider to be good industry practice, Halifax ought to have been on the look-out for the possibility of fraud and made additional checks before processing payments in some circumstances.

Having considered the value of the payments individually, that they were made over two separate days, and who they were made to, I'm not persuaded Halifax ought to have found the payments suspicious, such that it ought to have made enquires of Mrs C before processing them. Further to that, I consider the payments were in-line with prior recent activity that took place on the account. So I don't consider Halifax missed an opportunity to have prevented the payments.

And once the payments were processed by Halifax, it wouldn't have been able to stop the funds from leaving the account. So I've gone onto consider whether Halifax could have recovered Mrs C's losses upon being made aware of the scam.

Recovery

The relevant recovery option for card payments is through the chargeback scheme. This is a scheme run by the card scheme provider to resolve payment disputes between customers and merchants – subject to the rules they set. The scheme is voluntary and limited in scope.

R is an e-money provider, and provides money transfer services. With that in mind, I consider it more likely than not R provided the expected service by processing the payments to the intended account in line with the payment requests it received, albeit to the benefit of the fraudster. I therefore think it was reasonable Halifax didn't try to charge back the card payments as I don't think it's likely that a chargeback claim would have succeeded. So I don't think Halifax could have done anything further to have recovered Mrs C's loss.

Customer service

I've finally considered Mrs C's concern, that she reiterated in response to my provisional decision, around the service she was provided where she says she was told Halifax could help, only to then be told it couldn't.

Halifax paid Mrs C £30 compensation to recognise incorrect advice Mrs C was given. I appreciate it would have been frustrating for Mrs C to have been given incorrect advice after reporting that she was the victim of a scam. I still think Halifax's offer for poor customer service, for the reasons its explained, fair considering the impact this had on Mrs C. And while I recognise the wider impact the scam itself has had on Mrs C, I can't hold Halifax responsible for the actions of the fraudster.

As I understand the compensation has been paid to Mrs C, and I've concluded earlier that I don't think Halifax did anything wrong in not refunding the payments, there's nothing outstanding for Halifax to resolve.

Conclusion

Whilst Mrs C has undoubtedly been the victim of a cruel scam, and I appreciate this has been a significant loss for her and she feels this isn't a fair situation. Overall, I consider Halifax has done enough to put matters right and so therefore I don't uphold this complaint.

My final decision

My final decision is that 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 11 July 2025.

Timothy Doe
Ombudsman