

The complaint

Mr A complains that Bank of Scotland plc (trading as Halifax) won't refund money lost as part of a crypto investment scam.

Mr A is being supported in making his complaint by a representative, but for ease, I'll refer to Mr A throughout this decision.

What happened

The background to this complaint is well known to both parties, so I won't repeat everything here.

Mr A and his friend (Mr M) have explained that they were previously involved in a legitimate crypto investment.

Mr M has explained that he and Mr A thought this investment wasn't performing very well and so decided to stop trading. At which point they say they were introduced to an investment opportunity (with a company I'll refer to here as 'P'). To facilitate the investment, Mr A and Mr M were told they needed to open accounts with legitimate crypto exchanges. However, Mr M encountered difficulty doing that, and so he forwarded money to Mr A – who then sent the funds onto the crypto exchanges on Mr M's behalf. Mr A also sent around £13,000 of his own money to fund the investment.

Both Mr M and Mr A were in contact with representatives of 'P' (the scammers) who guided them through the investment process and encouraged them to invest more. Between 6 October 2023 and 13 November 2023 Mr A made around 30 payments totalling just under £195,000 to various crypto exchanges. The payments ranged from £1 to £5,000. Mr A initially received credits on the investment, which he forwarded on to Mr M. They've said this reassured them both that the investment was genuine and encouraged them to invest more.

Halifax spoke to Mr A on several occasions about the payments, after which they were released.

Mr A reported the matter to Halifax on 22 May 2024. It said Mr A had a history of making crypto related payments – as far back as November 2022. It added that it spoke to Mr A about the disputed payments on several occasions; where it questioned him about the payment purposes and provided crypto investment related warnings. Halifax said Mr A confirmed he was a regular user of crypto exchanges and that he wasn't being guided or instructed by a third party.

Unhappy with Halifax's response, Mr A referred his complaint to the Financial Ombudsman. He wanted the money returned, together with 8% interest and £300 compensation.

One of our Investigators considered the complaint but didn't uphold it. In summary, he said Halifax should've recognised that the payments presented a risk. And he thought its actions in speaking to Mr A about the payments was proportionate. Our Investigator said that because Mr A didn't disclose the true circumstances of the payments – Halifax didn't miss an opportunity to prevent the loss.

Our Investigator also thought there was nothing more Halifax could've done to recover the lost funds. And he didn't think there was any justification for Halifax to provide Mr A with compensation.

Mr A disagreed and asked for an Ombudsman's final decision. Essentially, he didn't think Halifax went far enough in questioning him about the payments – given their size, velocity and destination (crypto exchanges). Nor did Mr A think Halifax provided him with sufficient warnings during all their interactions of the risks of crypto investment scams. Mr A felt that this “*sudden change in spending pattern*” should've been of great concern to Halifax – to the extent that it should've invoked the Banking Protocol.

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 conclusion as our Investigator and for largely the same reasons. I'll explain why.

But first, I would like to say that if there is a submission I've not addressed; it isn't 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 – that being whether Halifax was responsible for the loss.

I should also point out that I'm aware that Mr M has also made a complaint to the Financial Ombudsman about his bank in relation to the transfers he made to Mr A. Whilst I have considered that complaint for context and background, my findings here only relate to Mr A's complaint about Halifax.

As a starting point, Mr A doesn't dispute that the payments were made in line with his instructions to Halifax; and Halifax has referred to evidence which further supports that he made the payments. So, although he didn't intend the money to go to the scammers and believed that the money was going to a legitimate investment, under the PSRs and the terms of his account, Mr A is presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance including the Consumer Duty, 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.

Further to that, where there is an interaction between a customer and a bank before a high value payment is processed, as there was here on several occasions, I'd expect the bank to take reasonable steps to understand more about the circumstances of that payment.

The question then arises whether Halifax ought reasonably to have held such suspicions or concerns in relation to Mr A's payments (individually or collectively) — and if so, what might have been expected from a proportionate intervention.

So, taking all of this into account, I need to decide if Halifax acted fairly and reasonably in its dealings with Mr A when he made the payments. Specifically, whether it should've done more than it did before processing the payments – and if it had, would that have made a difference. I also need to decide if Halifax could've reasonably recovered the lost funds.

Should Halifax have intervened in the payments?

When considering this point, I've kept in mind that banks process high volumes of transactions each day, and that there is a balance for Halifax to find between allowing customers to be able to use their accounts and questioning transactions to confirm they're legitimate.

I'm also mindful that Mr A had made crypto related payments between November 2022 and October 2023 which were legitimate, albeit I accept that most of those payments, but not all, were much lower in value than the payments in dispute here.

But I agree with our investigator, and Mr A, that the size and velocity of the payments from 6 October 2023 should've been of concern to Halifax. Whilst not to new payees (given Mr A's previous legitimate crypto transactions), multiple payments were made on the same and successive days – and were increasing in value.

Did Halifax do enough to protect Mr A?

I've listened to all the calls between Mr A and Halifax. Mr A sounds confident in his responses; confirming he made the payments and that the crypto accounts were in his own name. He also confirmed he wasn't being guided or coached in any way on what to do or say, and that there was no third party involved. In one call, Mr A also speaks with apparent knowledge about crypto he's used and invested with before.

At no time does Mr A confirm the involvement of the scammer or Mr M. That's despite Halifax warning him about scams. Instead, he says this is "100%" him and that he knows what he's doing. Given the number of calls, Mr A also had plenty of time to think about the significance of the responses he was giving. And yet he maintains his position throughout – at times demonstrating some frustration at being questioned about the payments.

Taking all this into account, I think Halifax acted reasonably in relation to the risks it identified. And given Mr A's responses, together with his previous legitimate account activity involving crypto, I'm not persuaded that the Banking Protocol was a proportionate response in the circumstances of this complaint.

For completeness, I've thought about whether any further or more probing intervention by Halifax is likely to have made a difference. But I don't think it would've done.

I can see from the chat with the scammers that Mr A was very much under the spell of the scam. He sought reassurance and advice from them on almost a daily basis, and communication continued until January 2024. I've also looked at the chat between Mr M and the scammers. Again, Mr M demonstrates full trust in what he's being told and at no time questions the legitimacy of the investment.

Both Mr A and Mr M have also said that they'd legitimately invested in crypto before and had seen returns. Mr A has also confirmed that due diligence was carried out into 'P' – and that neither he, nor Mr M, had any concerns. And I can't see that there were any regulatory warnings about 'P' at the time of the payments.

I think the trust that existed between Mr A and Mr M is also of significance here. Mr M was clearly confident enough in the investment to allow Mr A to invest significant sums of money on his behalf. And Mr A was confident enough to be investing with someone else's money.

And so, taking all this into account, I can't say that *any* level of intervention from Halifax would've likely resonated enough with Mr A to have prevented the loss. And if Halifax had raised any concerns, I think it's likely he'd have sought assurances from Mr M or the scammers.

Did Halifax do enough to try and recover the lost funds?

I've considered whether Halifax could reasonably have done anything more to recover the losses, but I don't think it could've done.

As these were card payments the only route of recovery would've been via a chargeback claim, and I can't see that it would've had any chance of success. The recipients of Mr A's payments were genuine merchants (crypto exchanges) which had carried out the services they had been instructed to perform. As such, any chargeback would've been successfully defended. So, I think Halifax acted fairly in not pursuing a chargeback claim.

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

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

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

Anna Jackson
Ombudsman