DRN-5623558

The complaint

Mr S complains that Bank of Scotland plc trading as Halifax ('Halifax') won't refund the money he lost to an investment scam.

He's represented by a firm of solicitors. To keep things simple, I'll refer to Mr S throughout this decision.

What happened

The background is known to both parties. I won't repeat all the details here.

In summary, Mr S says that, in August 2023, he received a message from someone (a scammer) he didn't know and who had seemingly contacted him by mistake. The contact between them nevertheless continued and a relationship started to develop.

Mixed in with casual chat on common interests, the scammer presented as a successful investor and soon offered to 'help' Mr S with making profits in cryptocurrency. And believing he was dealing with someone he could trust, he began making payments as instructed. As part of the process, he was given access to a convincing-looking platform and instructed to open accounts with crypto-exchanges ('C' and 'F') and a payment service provider ('R').

He says payments were first for 'investment' and later for 'fees' to withdraw funds. He realised he'd been scammed when he was repeatedly asked to pay more in 'fees' and then found information online indicating that what was happening to him was an elaborate scam. By that time, over £108,000 had been sent from Halifax in a series of payments between September 2023 and March 2024. Other accounts with separate firms were also used to fund the scam and some of the money came from loans he took out with various lenders.

A complaint was made to Halifax in May 2024 and then referred to our Service. Our Investigator considered it and didn't uphold it. In brief, he noted Halifax had intervened on payments; Mr S wasn't forthcoming with his answers when questioned; and continued with payments despite having been provided with relevant warnings. He wasn't persuaded Halifax had missed an opportunity that would have likely prevented his losses.

As the matter couldn't be resolved informally, it's been passed to me to decide.

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 decided not to uphold it for similar reasons as the Investigator.

In broad terms, the starting position at law is that a firm (like Halifax) is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (the 2017 regulations) and the terms and conditions of the customer's account. It's not in dispute that Mr S authorised the payments in question, so he's presumed liable for his losses in the first instance.

But that's not the end of the matter. Taking longstanding regulatory expectations and requirements into account, and what I consider to have been good industry practice at the time, Halifax should have been on the look-out for the possibility of fraud and made additional checks before processing payments in some circumstances.

In this case, I agree there was enough about some of Mr S's payments for Halifax to have stepped in on concerns that he might be at a heightened risk of financial harm from fraud – considering, for example, some of their values and the elevated risks associated with the type of payees. But I'm not going to go into detail as to when and why Halifax should have intervened because, like our Investigator, I'm not persuaded any timely and proportionate interventions would have made a difference to what happened, such that I can reasonably hold Halifax liable for Mr S's losses. I say this for the following reasons:

- As referred to by the Investigator, Halifax did intervene on payments. When payments to C were declined on 8 October 2023, Mr S was required to speak to its fraud team. When asked if anyone had asked him to make payments, he confirmed no-one had contacted him and it was all his *"own doing".* In another call that day, he again told Halifax no-one had contacted him and he'd carried out research into cryptocurrency investment himself.

- When Halifax spoke to Mr S on 19 October 2023, he again confirmed no-one else was involved and that he'd been investing in cryptocurrency for a few months. And when he was then referred to branch to show his ID, he was again put through to Halifax's fraud team – and again confirmed there was no-one else asking him to make the payments.

- Payments to R were also blocked. On 20 October 2023, Mr S was told by Halifax's fraud team that it wanted to make sure he wasn't falling victim to a scam. He was asked to answer honestly to the questions asked and was given examples of what common types of scams look like, including ones involving unsolicited contact and 'financial mentors'. He was told that no-one should be investing on his behalf. Despite being given warnings that I think should have resonated, Mr S went on to confirm he was investing on his own; that he'd carried out his own research; and that he'd not been asked to mislead the bank.

- Halifax told Mr S he had to wait 24 hours before it would remove the blocks. This was to allow him time to reflect and carry out more checks into the investment. When Mr S called back days later to unblock payments, he maintained he was self-taught and no 'adviser' was involved. When asked why he was breaking payments down, he said he thought it might help avoid blocks. Again despite extensive questioning and warnings, setting out scam scenarios that matched what was going on at the time, Mr S continued to assure Halifax there was no third-party, that everything he'd said was genuine, and he wouldn't send money to people he'd never met or had just *"popped up"* on his phone.

Like the Investigator, I'm satisfied Halifax's interventions were proportionate to the payment risks presented at the time. And, on the evidence, it's clear Mr S was prepared to provide misleading answers to some key questions and to move past relevant warnings.

Even if I were to say Halifax ought to have stepped in sooner or more often than it did, I'm not convinced things would have played out very differently. In my view, Mr S was heavily under the scammer's 'spell'. From reading the scam chat, I don't get the impression he developed significant concerns about their relationship (during the payments in question) such that he'd have likely been more upfront if questioned as the scam progressed. I can't overlook that he also continued to provide misleading responses (albeit to R) later into the scam. And I don't agree with the suggestion that the circumstances were such, considering also how Mr S presented and the reassurances he gave Halifax when questioned, that it was a failure on Halifax's part not to involve the Police when he was called into branch. Nor is it clear to me that Police involvement would necessarily have resulted in a different outcome.

To summarise, I’m sorry Mr S was scammed and about the impact the whole experience has had on him. I’m mindful he was a victim in all this and that it’s affected him deeply. But, for the reasons I’ve given, I don’t think it’d be fair and reasonable to hold Halifax liable for what happened. As for recovery, I’m satisfied there was little it could have done. For the transfers, those funds passed through Mr S’s accounts and had been sent to the scammer by the time the scam was reported or he’d have otherwise been able to access them himself. For the card payments, it’s unlikely a chargeback would have succeeded given there’s no dispute the merchants provided the cryptocurrency as intended (before it was lost to the scam).

My final decision

For the reasons I’ve given, I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S to accept or reject my decision before 26 September 2025.

Thomas Cardia
Ombudsman