

## The complaint

Mrs V, who is the executor of her late mother's (Mrs J's) estate, has complained about the late Mrs J's bank, Bank of Scotland plc trading as Halifax. Mrs V says Halifax failed to return funds the Mrs J lost when she fell victim to various scams.

The complaint was brought to us through a representative but for ease I will refer to their comments as being Mrs V's.

## What happened

Mrs J passed away in April 2020. Mrs V said after her mother's passing, she became aware that her mother had fallen victim to various investment scams. Mrs V contacted the alleged scammers and tried to recover her mother's funds but wasn't able to. On one occasion she was told she had to pay a further £2,000 for the funds to be released which she said she wasn't willing to do.

Mrs V complained to Halifax in January 2024. She said at the time of the alleged scams her mother was extremely vulnerable due to the passing of her long-term partner. Though Mrs V said she wasn't sure how her mother was approached about the scams, she said it was clear that her mother was being pressured to keep investing.

Mrs V complained about four transactions which took place between 11 and 24 March 2020 and came to a total of £8,000. She said it isn't clear whether Halifax intervened at any point but, even if it did, its interventions were not effective. She said Halifax should have intervened or made better interventions bearing in mind, among other things, that this was a new international payee, the transactions were relatively high in value and payments were made in quick succession. She asked for all the funds to be reimbursed to her plus interest and £300 compensation.

The transactions complained about were as follows:

No	Date	Type of payment	To	£
1	11/03/2020	International payment	Mr M	1,500
2	11/03/2020	International payment	Mr M	1,000
3	18/03/2020	International payment	Mr M	2,500
4	24/03/2020	International payment	Mr M	3,000

When investigating the complaint, Halifax identified two further payments that were potentially linked to scam investments.

No	Date	Type of payment	To	£
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5	01/08/2019	Faster payment	Mr H	280 (now refunded)
6	11/01/2020	Cheque	Mr H	3,000

Halifax refunded the £280 payment under the Contingent Reimbursement Model (CRM) Code but didn't issue any further refunds. It said it made no interventions but, in any event, the payments were not unusual and considered that the late Mrs J was, most likely, able to protect herself against being scammed. It noted that she had met one of the alleged scammers face to face at least once. It added that Mrs J contacted Halifax on 10 March 2020 to query a credit made to one of her accounts and was concerned it had been sent to the wrong place. Halifax believes this indicates that she had awareness and capacity for independent thinking. It said it had contacted the receiving banks to try to recover the money, though due to the passage of time it didn't consider that this was likely. It also offered £50 compensation by way of an apology for its delay in responding to the complaint.

One of our investigators reviewed the complaint but wasn't initially persuaded that Mrs J had fallen victim to a scam and said there wasn't sufficient evidence in support of a scam having taken place. But in any event, she didn't consider any of the payments to have been so unusual as to warrant an intervention by Halifax.

Mrs V didn't agree and asked for an ombudsman's decision. She said that the email addresses for the alleged scammers did not seem genuine which was a red flag as were their promises of high returns which were too good to be true. She added that there were warnings issued by international regulators regarding one of the scams in 2019.

Our investigator reiterated that she didn't think that the payments were so unusual as to warrant an intervention by Halifax.

The matter was then 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.

I understand that Mrs V had made a separate complaint to our service about Mrs J's other bank, "B", where she believes scam payments were also made from. I understand she is no longer pursuing that complaint.

In deciding what's fair and reasonable, I am required to take into account relevant law and regulations, guidance and standards, codes of practice, regulators' rules and where appropriate, I must also take into account what I consider to have been good industry practice at the time.

The starting position in law is that a bank such as Halifax is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations 2017 (though these don't apply to cheques) and the terms and conditions of the customer's account.

From what I have seen, on balance, I think Mrs J authorised all the payments in question. I say this bearing in mind that she had been in correspondence with the alleged scammers and their email exchanges also confirm the amounts invested in each case. So she is presumed liable for them in the first instance – even though she may have believed she was making a genuine investment. However, that isn't the end of the story.

### The alleged scams

I've gone on to consider whether Mrs J was the victim of one or more scams or whether these were simply investments which had gone wrong.

When Mrs V brought the complaint to our service, she said that her mother had fallen victim to various scams and used her Halifax and B accounts to make a number of payments. She has provided her late mother's documentation consisting of email correspondence with various parties. From those I've been able to identify four potential investment scams:

- An investment opportunity through Mr C in 2020 which concerned a £5,000 payment for a 13-week investment which would earn 15% weekly profits. And a further £5,000 investment promising to return £16,570 or a profit of 320%. But Mrs J had only been able to pay £3,000 in relation to that investment. After Mrs J passed away Mrs V contacted Mr C who asked for the £2,000 balance to be paid in order to release Mrs J's profits. He provided details of a US bank account for the £2,000 balance to be paid into.
- An investment through Mr H which started in 2019. Mrs J invested £5,000 for 12 months for an ongoing pension payment of £1,250 starting on the 13<sup>th</sup> month as long as the company she was investing in continued to trade. In the event of any problem, Mr H said he would repay the original investment plus another £5,000 guaranteed return. Their correspondence suggests they also met in person.
- The purchase of a £20,000 property bond in company W through broker I in 2019/20. This was made through Mrs J's account with B not Halifax.
- The purchase of shares in a private company called G, made through Mrs J's account with B in 2006.

From what I have seen, Mrs J used her Halifax account in relation to the first two potential scams. Though there were no direct payments to Mr C (payments were made to a Mr M who I have not seen any correspondence with), I think they were made in relation to Mr C's proposal because when he asked Mrs V for £2,000 to release her late mother's funds, he provided her with a US account. And the payments to Mr M were to a US account. This was the only "investment" which involved payments to the US. And also, the sums seem to correlate with what Mr C later told Mrs V about her mother's investment i.e. that she had invested £8,000.

On balance, and though I appreciate Mrs J seems to have met him in person, I think Mr H's proposal was a scam. I say this because Mr H said that the investments were for a particular project or company about which, the Financial Conduct Authority (FCA) issued a warning saying it wasn't authorised by it in May 2021.

In relation to Mr M or Mr C, Mrs V said she believes this was also a scam as Mr C asked for further payments before releasing any funds to Mrs V which is not something a legitimate investment company would do. Also, the evidence suggests he promised very high returns which were too good to be true. These are all valid points which suggest that, on balance, this was also a scam. But even so, this wouldn't necessarily mean that Halifax was responsible for the loss that Mrs J suffered. I'd still have to consider whether there were any failures by Halifax which led to these losses.

#### Halifax's responsibilities to Mrs J

Where the customer made the payments as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payments.

In summary, I consider it fair and reasonable that between August 2019 and March 2020 Halifax should:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment;

A cheque is not considered a payment service under the previous or present Payment Service Regulations ("PSRs"), so the provisions of those regulations do not apply to this type of payment. But I don't consider there to be a material difference between the reasonable, good-practice requirements on firms when processing either cheques or electronic payments when it comes to monitoring accounts for the prevention of financial crime and having adequate systems and controls in place to prevent misappropriation of funds. I don't think a bank should be less vigilant, or fail to carry out due diligence, just because the payment is by cheque.

Whilst we now know more about the circumstances which led Mrs J to make the payments using her bank account and the process by which that money ultimately fell into the hands of the fraudster, I am mindful that Halifax had much less information available to it upon which to discern whether any of the payments presented an increased risk and that Mrs J might be the victim of a scam. For example, I mentioned above that the FCA issued a warning regarding the company Mr H was advising Mrs J to invest in, but this wasn't until May 2021. Furthermore, as the payments were made directly to Mr H, Halifax wouldn't have necessarily known that the payments were linked to that company.

#### Payments 1-4

I have considered Mrs J's statements as far back as August 2018, though I have focused on transactions which happened closer to the time of these payments. There was a £745 faster payment made in February 2020 to an individual payee and also a £1,740 faster payment to another individual in October 2019. Though these amounts are lower than payments 1 to 4, on balance, I don't consider that this alone should have indicated that there was a heightened risk that Mrs J may have fallen victim to a scam. I also appreciate the payments in question were made to a new, international payee but I don't think the amounts involved were so large as to raise suspicions. Furthermore, they were spread out and made over a period of 13 days, the amounts didn't increase significantly and so it is arguable that a potential fraud pattern hadn't yet begun to form. Even with payments 1 and 2, which were made on the same day, I think the total amount was again not high enough to reasonably raise suspicions.

### Payments 5 and 6

Halifax has already refunded payment 5 under the CRM Code.

I have also considered the activity on the account prior to payment 6 and though it was higher than other recent payments I didn't think it was so high as to warrant an intervention. For example, there was the £1,740 faster payment to an individual in October 2019 which I mentioned above, but no other payments for similar amounts other than transfers to Mrs J's own accounts. Having said that, I also didn't think the fact that the payment was made by cheque was unusual as Mrs J had used cheques previously including in February 2019 for a payment of £3,398.50. Furthermore, payment 6 was made five months after the first payment to Mr H and so the payments were spread out and a pattern that might indicate potential fraud hadn't begun to form. And though I appreciate £3,000 may have been a significant amount to Mrs J and her family, Halifax processes many transactions like this every day. Whilst banks have obligations to be alert to fraud and scams and to act in their customers' best interests, they can't reasonably be involved in every transaction. There is a balance to be struck between banks identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. And I don't think it was so unusually large to be seen as potentially suspicious.

### Potential for recovery

Halifax said it would attempt to make a recovery from the receiving banks. In relation to payment 6, this would be on a best endeavours basis as the cheque will have already been through the clearing process. So the decision to return funds (if any remained) would sit with the receiving bank not Halifax. And with regards to international payments, international banks aren't bound by the same rules and regulations as banks within the UK. The first payment was made on 11 March 2020 and the last on 24 March 2020 and the potential scam was reported in January 2024, almost four years after the last payment. I understand that Mrs J didn't know she was potentially the victim of a scam and Mrs V didn't become aware of this until later and initially was relying on the alleged scammer to issue her with refunds, but the delay means any recovery action was most unlikely to be successful as scammers usually remove funds within hours. Halifax said it contacted the receiving banks and asked for the funds to be returned to Mrs V. But Halifax is reliant upon the international bank choosing to return funds. It can't require or force them to and unfortunately it seems no

funds have been returned. From what I've seen Halifax has done what it should've to try and recover the funds for Mrs V but has been unable to obtain a refund for her.

I appreciate Mrs V will be disappointed with my decision. I can understand how difficult this must all be for her; first of all, losing her mother but also discovering that she had been the victim of at least two scams - especially bearing in mind her vulnerabilities. But what I have to decide is whether on balance, Halifax, as Mrs J's bank, failed to take action to prevent her from falling victim to a scam. And in these specific circumstances, I didn't think that was the case.

### **My final decision**

For the reasons above, I have decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs V on behalf of the estate of Mrs J to accept or reject my decision before 17 December 2025.

Anastasia Serdari  
**Ombudsman**