

The complaint

Mr B complains that Bank of Scotland plc trading as Halifax won't reimburse him for payments he made to a scam.

Mr B's complaint is brought by a professional representative but for ease I will refer only to Mr B in this decision.

What happened

I issued a provisional decision on this complaint in June of this year. An extract from that provisional decision is set out below.

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In early 2024 Mr B received a WhatsApp message from a scammer who built a rapport with him and convinced him to invest in an online trading account. Mr B was encouraged to open an account with a cryptocurrency exchange who I will call C, make payments to that account from his Halifax account and, thereafter, to exchange that money and use it to make payments towards a scam trading account. Mr B was encouraged by the returns he appeared to be making so he made further investments. The payments Mr B made, or tried to make to C, are summarised in the following table.

Payment No.	Date	Type	Payee	Amount
1	14 August 2023	Card	C	£10
2	14 August 2023	Card	C	£118
3	16 August 2023	Card	C	£81
4	2 April 2024	Card	C	£1,000*
5	6 April 2024	Transfer	C	£4,855 (declined)
6	6 April 2024	Card	C	£4,855*
7	7 April 2024	Card	C	£4,800 (declined)
			Total loss	£5,855

*Scam payments

On 6 April 2024 when Mr B tried to make payment 5, the bank blocked the payment and got in touch with him. He explained that he was buying an investment portfolio and that he'd been investing for over a year. He agreed that the payment should be cancelled but didn't want to wait to discuss the issue with the fraud team. He said he'd try to make the payment again, later, using his debit card through the app he had with C and he was subsequently able to do so. Payment 7 was also blocked by Halifax and when he called to query that he was asked to visit a branch. It was there that Halifax were able to convince Mr B he'd been scammed and that he shouldn't invest any further.

Mr B complained to Halifax in June 2024. He said they should have intervened earlier. But when Halifax didn't uphold Mr B's complaint, he referred it to this Service.

Our investigator thought Halifax should have intervened to stop payment 6 but if they had he

didn't think the intervention would have made any difference. He noted that when they'd called to discuss payment 5 Mr B had told them he was investing his own money in a portfolio that wasn't high risk and that he'd made payments to before. He thought it likely Mr B would have provided the same information and that Halifax would not, therefore, have been likely to uncover the scam. He didn't think Mr B's complaint should be upheld.

Mr B disagreed. He said that Halifax had blocked payment 5 and should, therefore, have blocked payment 6. He said that Halifax knew he would be trying to make the payment again later that day by a different method and ought to have intervened again. Mr B asked for a decision by an ombudsman.

What I've provisionally 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 was very sorry to hear that Mr B had lost money in the way that he did. I appreciate how distressing and frustrating it must have been for him. I think Halifax should have identified this scam and that they should refund half of the money Mr B lost when making payment 6. I'll explain why.

The Financial Ombudsman is designed to be a quick and informal alternative to the courts. Given that, my role as an ombudsman is not to address every single point that has been made. Instead, it is to decide what is fair and reasonable given the circumstances of this complaint. And for that reason, I am only going to refer to what I think are the most salient points. But I have read all of the submissions from both sides in full and I keep in mind all of the points that have been made when I set out my decision.

Where the evidence is incomplete, inconclusive, or contradictory (as it is here), I have to make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

I'm required to take into account the relevant, laws and regulations; regulators rules, guidance, and standards; codes of practice and, when appropriate, what I consider to have been good industry practice at the relevant time.

Broadly speaking, Mr B is responsible for any payments made from his account which are properly authorised, as they were here. And Halifax has a duty to process valid payment instructions quickly and with minimal friction. These positions are set out in the Payment Service Regulations (2017).

However, taking into account the relevant law, regulations, industry guidance, and best practice, firms like Halifax ought fairly and reasonably to have systems in place to monitor transactions and accounts for signs that its customer might be at risk of financial harm through fraud. Where such risks are detected, there ought to be action from the bank to intervene through the giving of warnings and scam education. Any intervention should be proportionate to the risk presented by the circumstances of the payment. Mr B made these payments after the inception of the FCA's Consumer Duty, which puts an obligation on firms to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams.

Halifax should also have been aware of the increase in multi-stage fraud (including those involving cryptocurrency platforms) when considering the scams that its customers might become victim to. Multi-stage fraud involves money passing through more than one account

under the consumer's control before being sent to a fraudster. Our service has seen a significant increase in this type of fraud over the past few years and it's a trend Halifax ought fairly and reasonably to have been aware of at the time of the scam.

Scams involving cryptocurrency platforms have also increased over time. The FCA and Action Fraud published warnings about cryptocurrency scams in mid-2018 and figures published by the latter show that losses suffered to cryptocurrency scams have continued to increase since. They reached record levels in 2022.

I think Halifax would have been aware at the time all of these payments were made that fraudsters use genuine firms offering cryptocurrency or currency exchange as a way of defrauding customers and that these scams often involve money passing through more than one account. So, Halifax should have been alert to whether these payments were part of a wider scam. The fact that the money used to fund the scam wasn't lost at the point it was transferred to Mr B's own account does not alter the fact that I think Halifax can fairly be held responsible for his loss in such circumstances.

Where there is a failure by a firm to properly intervene and protect a customer, it might then be fair and reasonable to say that the firm becomes responsible for the customer's loss. And so, in Mr B's case, it's for me to determine if Halifax made an error(s) over the course of the scam and, if so, whether it's fair and reasonable for it to be held responsible for Mr B's losses as a result.

I don't think Halifax were wrong not to intervene when payments 1 to 4 were made. Payments 1 to 3, while being made to a cryptocurrency account, were small in value and I wouldn't expect the business to intervene in all cryptocurrency transactions as that would create excessive friction to the banking process. By the time the fourth payment was made almost eight months had passed, the value of the fourth payment was still relatively small and Halifax may reasonably have considered the payee to be a trusted one given the previous, smaller transactions. I don't think it needed to intervene at that point either.

I think Halifax were right to intervene and block payment 5. This payment was much larger than other payments that had been made through Mr B's account, it was a significant escalation to the payments he'd been making, and Halifax should have understood that payments to a cryptocurrency account carried an elevated risk of fraud.

But when Mr B spoke to them on 6 April 2024 to query why payment 5 had been blocked, I think they missed an opportunity to protect him from the scam. They asked some limited questions of Mr B and ascertained that he was trying to invest the money he was transferring. It wasn't possible to transfer Mr B to the fraud team as the waiting time was prohibitive, but in those circumstances, I think they should have sought to ensure that Mr B was able to speak to that team so that they could ask more detailed questions and gain a better understanding of whether Mr B was being scammed. They would, for instance, have wanted to know if Mr B had been in touch with anyone who had been recommending the investment, and they would have wanted to know how that relationship had come about. Instead, despite the agent's explaining that the payment was high risk, they encouraged Mr B to make the payment again using a debit card and C's platform as they explained the payment was more likely to go through then. Mr B took their advice, and the payment went through, and he lost the money. Had Halifax suspended payments to C until the fraud team were able to speak to him, I think the scam would have been uncovered. I say that because, the next day, when he tried to make a further payment, he did speak to that team; they directed him to a branch and while there are no detailed notes of the branch conversation, it is recorded that the branch were able to educate Mr B about the scam and to give him warnings that led to the scam being identified. And, as that's what I'd expect to have happened on the phone it's more likely than not that the scam would have been uncovered if

the bank had intervened appropriately, blocked payment 6 and ensured that a member of the fraud team spoke to him.

Overall, I think Halifax can, therefore, fairly be held responsible for the loss Mr B incurred when making payment 6.

I've thought about whether it is fair for Mr B to share responsibility for that loss, and I think it is. While I have every sympathy with him, I do think some of his actions contributed to the loss he experienced. I accept that he wasn't a sophisticated investor, but I think there were signs that this arrangement was a scam, and I don't think a reasonable person would have acted in the way he did. In particular, I don't think a reasonable person would have engaged in an investment opportunity with a stranger without more extensive investigation into that opportunity. I can see from the chat transcripts that Mr B raised concerns with the scammer as he'd noticed information online from someone who'd been scammed in a similar fashion. It's unclear when that was but as the conversation preceded the £4,855 investment it seems likely it was after 2 April and before 6 April 2024. Had Mr B conducted research of that nature, earlier I think it's likely he would have been able to avoid being scammed. On, or around, that time I've also seen that Mr B shared a photograph of a message from a bank blocking a payment. The scammer told him when he called the bank to release the payment, he shouldn't mention the payment was for cryptocurrency. I think that was another red flag missed by Mr B. There was also no contract or terms exchanged for what was a considerable investment for him, and I think it would have been reasonable for him to have sought out that information in the circumstances. Overall, I think it would be fair for both parties to share the loss evenly. Halifax will need to add 8% interest to their share of the refund as Mr B has been deprived of the money.

I've thought about whether Halifax acted reasonably when it was made aware of the scam. They haven't explained whether they tried to recover any funds, but it's not disputed that the funds were sent to a wallet and electronic payment platforms in Mr B's name before being forwarded to the scammers. So, Halifax wouldn't have been able to recover any of his funds and I don't think it treated him unreasonably for that reason here.

As payments were made using a debit card Halifax have explained that they may have, but didn't, make a claim to recover the funds through the chargeback scheme. That scheme isn't guaranteed to result in a refund, and I'd only expect Halifax to raise a chargeback if it was likely to be successful. As Mr B transferred the money to himself, he got the service he expected. The scam didn't occur until the money was sent to the scammer from the crypto exchange. I don't, therefore, think a chargeback would have been successful and I don't think Halifax were unreasonable not to process one.

My provisional decision

For the reasons I've given above, I am currently minded to uphold this complaint in part and tell Bank of Scotland plc to:

- Refund 50% of payment 6 (£2,427.50) to Mr R.*
- Apply 8% simple interest from the date of payment to the date of settlement.*

The parties' responses to my provisional decision

Halifax accepted my provisional decision but neither Mr B nor his representatives responded.

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.

As I've been provided with no further comments or evidence to consider, I have not found any reason to amend my provisional decision. My provisional decision, therefore, becomes my final decision on this complaint.

My final decision

For the reasons I've given above, I uphold this complaint in part and tell Bank of Scotland plc to:

- Refund 50% of payment 6 (£2,427.50) to Mr R.
- Apply 8% simple interest from the date of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 23 August 2025.

Phillip McMahon
Ombudsman