

Complaint

Mr L is unhappy that Bank of Scotland plc (trading as Halifax) didn't reimburse him after he fell victim to a scam.

Background

The background to this case is already familiar to the parties, so I do not intend to repeat it in full. Instead, I will briefly summarise the key points.

Mr L fell victim to a cryptocurrency investment scam. When the fraud was discovered, he informed his bank, which was able to recover part of the funds. However, as I understand it, he was still left with a loss of £42,000.

In early 2022, Mr L received a call from an individual claiming to work with the third-party cryptocurrency platform involved in the original scam. The caller said they could help him recover the funds he had lost. According to Mr L, the caller "said he would be able to get back £42,000 plus the profit, as all the money had been invested in Bitcoin, and I just needed to follow the instructions he had given me." However, he was told that in order to recover the funds, he would need to pay various administrative fees and taxes.

Unfortunately, this was not a genuine attempt to assist him. Mr L had, in fact, been targeted by fraudsters for a second time.

He was asked to make payments through a third-party cryptocurrency exchange that I'll refer to as C. He explained:

The scammer asked me to open the [C] account and transfer a small amount to validate the account. I used my Halifax account to transfer to [C], I would transfer to [C] to then buy bitcoins. The scammer using anydesk would transfer the bitcoins to another wallet. The account was an escrow account in my name and I would be refunded this all, including the additional money I had put in."

In February 2022, Mr L began making payments through the cryptocurrency platform using his Halifax account. The initial payments were small, but they increased over time. When he attempted to make a tenth payment on 11 March, the bank intervened, stopped the transaction, and contacted him.

During that call, a bank employee informed Mr L explicitly that the supposed recovery service was not genuine and that he was being targeted by fraudsters again. Mr L accepted this, and the payment was cancelled. However, in the days that followed, his position changed, and he resumed making payments. In total, these subsequent payments amounted to more than £450,000.

It was not until September that Mr L eventually spoke with the police. The circumstances are not entirely clear, but it appears possible that this occurred following an intervention by another bank involved in transferring his funds.

Following his contact with the police, Mr L stopped making any further transfers linked to the supposed recovery effort. He recognised that he'd fallen victim to a scam and so he notified the bank. It didn't agree to refund his losses in full. Mr L was unhappy with that response and so he referred his case to this service. An Investigator reviewed the case and concluded that, once Halifax had identified that Mr L was being targeted by a scam, it should not have

allowed any further payments to proceed. If Mr L had maintained that the payments were legitimate, the Investigator felt the bank should have invoked the Banking Protocol—the process through which a police officer attends the branch and helps the customer understand that they have been misled by a fraudster.

However, the Investigator also considered it fair and reasonable for Mr L to bear some responsibility for his losses. She therefore thought the bank should be required to reimburse only 50% of the losses incurred after that point.

Halifax disagreed with the Investigator's opinion and so the complaint was passed to me to consider.

I contacted Halifax informally in an attempt to resolve matters informally without the need for a final decision. I proposed that it reimburse 25% of Mr L's losses, rather than the 50% recommended by the Investigator. Halifax agreed to settle the complaint on that basis, but Mr L hasn't accepted its offer.

Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations (in this case, the 2017 regulations) and the terms and conditions of the customer's account. These payments were all authorised by Mr L and so is presumed liable at first instance.

However, that isn't the end of the story. Good industry practice required that Halifax be on the lookout for account activity or payments that were unusual or out of character to the extent that they might indicate a fraud risk. On spotting such a payment, I'd expect it to take steps to protect their customer. That might be as simple as providing a written warning as part of the payment process or it might extend to making contact with the customer to establish the circumstances surrounding the payment.

In this case, the bank did act proportionately when it blocked the tenth payment. It discussed the wider circumstances surrounding the transaction and gave Mr L clear and appropriate warnings about the risks involved. Mr L accepted those warnings and confirmed that he would not make any further payments. However, he later changed his mind and proceeded to make numerous additional payments, far larger in value, without any further intervention from the bank.

I note that it was only several months later following contact with the police that Mr L finally stopped transferring money to the fraudsters. The fact that the police were ultimately able to persuade Mr L to cease making payments suggests that, had the bank invoked the Banking Protocol at the time of one of those later transactions, it is likely the scam would have been brought to an end sooner and Mr L's losses would've been minimised. In view of that, it appears that a shortcoming in Halifax's actions caused the financial loss he suffered and it's fair and reasonable that it pay redress.

The Investigator concluded that, despite the bank's shortcoming, Mr L should bear some responsibility for his losses on the basis of contributory negligence. She suggested that the bank should be permitted to apply a 50% deduction to the compensation payable. However, I do not believe a 50% deduction properly reflects Mr L's level of negligence.

Having listened to the intervention call of 11 March, there was nothing to indicate any uncertainty on Mr L's part about the fact that the individuals contacting him were attempting to defraud him. The call handler warned him that the fraudsters *"will ask you to transfer money from your [C] account to them and then they've stolen it from you."* Mr L replied, *"That's what I'm guessing will happen. I'm not going to allow it to happen."* He also explained

that he had spoken with C's customer services team, who confirmed that *"nobody from their company would ever call you and say that sort of thing."* The call concluded with Mr L reassuring the bank that he would not make any further payments.

I know that something occurred to change his mind shortly afterwards, because three days later he began making payments again. He has been unable to explain what interaction led him to disregard the bank's unequivocal warning. I asked whether he could provide a copy of the messages exchanged with the fraudster, but he said this was not possible because the mobile phone he was using has since been damaged and the data is irretrievable.

Halifax took all reasonable steps at that stage to protect Mr L from the risk of fraud, and on the evidence available, there is nothing to explain or justify his dramatic change of position three days later.

Even if I were persuaded that the fraudsters had provided an explanation convincing enough for him to ignore Halifax's clear warnings, several other factors still indicate significant carelessness on his part. For example, I'm mindful that, according to Mr L's representatives, he believed he remained approximately £42,000 out of pocket from the original scam. It is difficult to understand how he could reasonably have believed that paying more than £400,000 in fees was necessary to recover that loss. At multiple points during the course of the scam, it should have been apparent to him that such a request could not have been genuine.

I can see that Mr L contacted the fraudsters in May because he had tried to look up the 'agent' assisting him and was concerned to find that the individual did not have a LinkedIn profile. The fraudsters suggested assigning him a different agent, but Mr L replied, *"so long as he does work for [C] that's ok."* The fact that he was carrying out checks on this person at that stage suggests he did have some underlying doubts about whether the arrangement was genuine. Nevertheless, he accepted the fraudster's reassurance, despite having already established in March that the supposed agent could not possibly have been employed by C.

I can also see that, on 16 August, Mr L sent a message to the fraudsters about his long-awaited refund, saying: *"It's the gremlins/family that keep telling me it won't happen and it puts doubt in my mind."* To me, this indicates that he had discussed the situation with people close to him and that they had expressed scepticism about what he was doing. Despite those concerns being raised by family members, he continued to make payments. He pressed on even though he, and those close to him, harboured obvious doubts about the authenticity of the arrangement.

In fact, on 21 August, his messages to the fraudsters indicate that he had begun concealing his actions from his family. Referring to the anticipated refund, he said that "it would be better if the family didn't see it all." Later the same day, he told the fraudster that he could not make a payment because his wife might notice, saying *"she's hovering around me..."*

It is possible that Mr L continued in the hope, rather than any genuine expectation, that the individual contacting him was legitimate. However, in my view, Mr L demonstrated an extreme degree of carelessness here, and there are no persuasive explanatory factors to mitigate that.

Halifax is certainly not without fault here. However, a 50% deduction would imply equal fault, and for the reasons outlined above, that can't be justified. Halifax's offer, which is based on Mr L bearing 75% of the responsibility for his losses is, in my view, fair and reasonable.

Final decision

For the reasons I've explained above, I uphold this complaint in part. If Mr L accepts my final decision, Bank of Scotland plc trading as Halifax needs to refund 25% of his losses after the 14 March 2022, less any funds it has already repaid. It should also add 8% simple interest per annum to those payments calculated to run from the date they debited his account until

the date any settlement is paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 4 March 2026.

James Kimmitt
Ombudsman