

The complaint

Mr and Mrs G have complained that Bank of Scotland trading as Halifax won't refund money they lost to a scam.

What happened

Mr G came across and advert for an investment opportunity which he believed was being endorsed by a celebrity. He discussed the 'investment opportunity' with the scammer and began investing. The transfers were made from their Halifax account to Mr G's account he holds with a third-party bank (which I will refer to as S) and from there onto a cryptocurrency exchange and finally onto the scammer.

Mr G has said he was happy with how the 'investment' was going and was able to withdraw £3,809.99. He says this persuaded him to continue investing. Eventually the scammer stopped contacting Mr G. However, Mr G didn't realise he had been scammed until much later on when he raised the complaint with the third-party bank and Halifax.

Halifax looked into Mr G's concerns, but it didn't think it had acted unfairly from declining to refund the payments Mr and Mrs G made. They remained unhappy and referred the complaint to our service. Our investigator looked into their complaint, but he didn't recommend it be upheld. So, Mr and Mrs G referred the complaint to me to consider.

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 agree with the investigator's findings for broadly the same reasons, I will explain why.

I'm sorry Mr and Mrs G have been the victims of a scam, and I don't underestimate the impact this has had on them. But while I accept, they have lost a lot of money due to being deceived by the scammer, I must consider whether Halifax is responsible for the loss they have suffered. And I don't think it is.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. It isn't disputed that Mr and Mrs G knowingly made the payments from their Halifax account – albeit under the direction and guidance of the scammer as they believed the investment to be legitimate. And so, I'm satisfied they authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of her account, Halifax are expected to process Mr and Mrs G's payments, and they are presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance, 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.

So, the starting point here is whether the instructions given by Mr and Mrs G to Halifax (either individually or collectively) were unusual enough to have expected additional checks being carried out before the payments were processed.

Having considered the value of the payments and Mr and Mrs G's previous expenditure on the account, I am satisfied the payments ought to have stood out at unusual and uncharacteristic to the extent that Halifax ought to have intervened. I appreciate that Halifax has said that Mr and Mrs G was transferring money to an account in Mr G's name which was already an established payee. However, I am satisfied that the payment values alone ought to have triggered Halifax' fraud detection system.

So, with that in mind, I have gone on to consider what a proportionate intervention in light of the risk presented would be in these circumstances. In doing so, I've taken into account that many payments that look very similar to this one will be entirely genuine. I've given due consideration to Halifax' duty to make payments promptly, as well as what I consider to have been good industry practice at the time this payment was made, especially given the payments were made in 2019.

Taking that into account, I think it would have been proportionate at that time for Halifax to have contacted Mr and Mrs G (given the size of the payments) and have asked open and probing question to gather more information about the payment and to establish (if any) the risk. Once it had narrowed done the potential risk it should have provided an adequate warning.

Halifax hasn't been able to provide any evidence to show it intervened or provided an adequate warning. It has said due to the passage of time from when the scam occurred and when Mr and Mrs G reported the scam, they no longer have any information. So, I have gone on to consider what is likely to have happened, on the balance of probabilities, if Halifax had intervened in a similar way as I have highlighted above.

However, it's important to highlight that the when Mr G transferred his fund from S to the cryptocurrency exchange, some of the high value payments triggered S' fraud detection systems, which meant further checks were required before the payments could be processed. While we don't have evidence of the checks carried out, I am satisfied, some intervention took place due to the evidence S provided. And as a result Mr G's payment was released.

Having read the scam chats between Mr G and the scammer I am satisfied they had built a relations of trust and were in regular contact. I think it's fair to conclude that Mr G was under the spell of the scammer and felt their friendship they had developed was genuine. This is evident by Mr G continuing to correspond with the scammer, long after his last payment to the scam. And even after he had finished 'investing' he never suspected it was a scam until almost five years later (despite not receiving the promised returns).

Lastly Mr G's representative has said that Mr G conducted due diligence prior to investing, searched the company and the website and he felt it looked professional and legitimate. Mr G was also subject to a 'know your customer' check prior to making the investment which again reinforced the legitimacy (in Mr G's eyes) of the investment. As such, Mr G was confident the company was legitimate and at that time, even if Halifax had researched the company, it wouldn't have found any adverse information linking it to a scam.

Mr G has also told our service he was able to watch his investment grow, and "he was happy with the investment from 2019 to 2021, after which he never received any further contact". So on balance, this, alongside the fact Mr G was able to make withdrawals, I am satisfied,

even if Halifax had intervened in the way I have outlined above, it was unlikely Halifax would have unveiled the scam and prevented Mr G's loss.

I have gone on to consider if Halifax took reasonable steps to try and recover the funds. Mr G sent the last payment from S on 29 November 2019 and from Halifax on 27 November 2019. He reported the scam to S on 26 November 2024 and to Halifax sometime later (after he had brought the complaint against S to our service). Which was more than five years after sending the last payment in dispute.

It's important to note Mr and Mrs G didn't make the payments from his Halifax account directly to the scammer, they sent the payments to an account S, in Mr G's name. If these funds had not already been transferred to the scammer by Mr G they would be in their control to access as and when they chose. Halifax would not have been able to attempt to retrieve the funds from the scammer directly as that is not where the funds were originally sent to. But even if it could have, due to the time that had passed from the scam occurring and the when it was reported and in conjunction with Mr G confirming the payment was sent on to the scammer, I am satisfied it was always unlikely the funds would have been recoverable.

So, it follows that I won't be asking Halifax to do anything further.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G and Mrs G to accept or reject my decision before 26 December 2025.

Jade Rowe
Ombudsman