

The complaint

Mr M complains that Bank of Scotland plc trading as Halifax (Halifax) is refusing to refund him the amount he lost as the result of two scams.

Mr M is being represented by a third party. To keep things simple, I will refer to Mr M throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

Since bringing this complaint to our service Mr M has accepted that Halifax is not responsible for the money he lost in the first scam, where payments took place between January 2020 and February 2020.

As Mr M has accepted this my decision will concentrate on the second scam only.

There is some confusion over how Mr M became involved with the scammer (X). He has given different accounts. One being he found a blog online and clicked on a link to the investment, another being that he found the investment via Facebook, and a third being that he had followed a thread of genuine emails from a well-known celebrity that he trusted to be genuine. However, Mr M has also explained on every occasion that he was required to submit his personal information and make an initial payment so that a trading account could be setup.

Mr M explained he was then told to download the Payward app to buy cryptocurrency through Kracken, although he doesn't appear to be certain whether the Kracken account was in his name.

Mr M says X told him it had bought a large amount of cryptocurrency at a reduced price and that it was passing this benefit onto its customers. If Mr M was to become involved in the investment, he would make an instant return.

Persuaded by X Mr M agreed to start investing. Mr M made the following payments:

Date	Merchant	Amount	Payment Method
6 August 2020	Payward Ltd	£1,000.00	Transfer
10 August 2020	Payward Ltd	£20,700.00	Transfer
10 August 2020	Payward Ltd	£50.00	Transfer
11 August 2020	Payward Ltd	£5,000.00	Transfer
12 August 2020	Payward Ltd	£1,000.00	Transfer
13 August 2020	Payward Ltd	£2,000.00	Transfer
19 August 2020	Payward Ltd	- £1,497.25	Refund
4 September 2020	Payward Ltd	- £1,989.54	Refund
10 September 2020	Payward Ltd	- £996.33	Refund

Mr M decided he wanted to meet X before agreeing to make any further investments. X agreed to a meeting but cancelled which caused Mr M concerns over the investment and he requested to withdraw his funds.

Mr M was then told that if he wanted to withdraw his investment X would be entitled to 20% of the balance. Mr M agreed to this, but X explained the 20% payment would have to be made by him first.

Given the actions of X Mr M realised he had fallen victim to a scam.

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.

It has not been disputed that Mr M has fallen victim to a cruel scam. The evidence provided by both Mr M and Halifax sets out what happened. What is in dispute is whether Halifax should refund the money Mr M lost due to the scam.

Recovering the payments Mr M made

Mr M made payments into the scam via the method of transfer. When payments are made in this way Halifax has limited options available to recover them.

I have considered if Mr M should have received a refund under the Contingent Reimbursement Model (CRM) code. But the CRM code only applies when domestic payments (as the result of a scam) are sent to another person. Here I think it's most likely Mr M sent the payments to an account held in his own name. So, I'm satisfied the CRM Code wouldn't apply in this scenario.

With the above in mind, I don't think Halifax had any recovery options available to it for the payments Mr M made.

Should Halifax have reasonably prevented the payments Mr M made?

It has been accepted that Mr M authorised the payments that were made from his account with Halifax, albeit on X's instruction. So, the starting point here is that Mr M is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Halifax should have been aware of the scam and stepped into question Mr M about the payments he was making. And if it had questioned Mr M, would it have been able to prevent the scam taking place.

The first payment Mr M made into the scam was for £1,000. Considering the size of this payment and that it was sent to a legitimate business I don't think it was unreasonable that this payment didn't trigger Halifax's fraud prevention systems, and that it didn't step into question Mr M.

The second payment Mr M made into the scam was for a much larger amount of £20,700. This payment triggered Halifax's fraud prevention systems and a text message was sent to Mr M to call the bank before the payment could be processed.

Halifax has provided a copy of this call to us. During the call Mr M explains he found the investment via Facebook. But he also went on to say that the payments were his idea and that he had already made a profit on the first payment he had made.

There were no warnings available about the company Mr M was investing with at the time of the call, and Mr M has confirmed that he was coached by X on what to tell the bank when making the payments.

While Halifax could have done more in the call it had with Mr M, ultimately, I think that Mr M had complete trust in the scam that was presented to him and was sold on how persuasive and credible X appeared to be. I don't think any further intervention would have dissuaded Mr M from making the payments.

The remaining payments Mr M made were for smaller amounts that I wouldn't have expected to trigger Halifax's fraud prevention systems, especially as he had already confirmed a much larger payment to the same business was legitimate.

So, Halifax is not responsible for Mr M's loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 December 2023.

Terry Woodham
Ombudsman