

## **The complaint**

Mr D complains that Bank of Scotland plc (trading as “Halifax”) won’t refund over £14,000 he lost to an investment scam.

The details of this complaint are well known to both parties, so I won’t repeat everything again here. Instead, I will focus on giving the reasons for my decision.

## **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 conclusions reached by the investigator for the following reasons:

- It isn’t in dispute that Mr D authorised the disputed payments he made to his Coinbase wallet from his Halifax account (where his funds were subsequently transferred on to the scammer from his crypto wallet). The payments were requested by him using his legitimate security credentials provided by Halifax, and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.
- However, I’ve considered whether Halifax should have done more to prevent Mr D from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character.
- Having reviewed the first disputed transactions made between 17 and 31 December 2021, I don’t think these were enough in themselves to have warranted an intervention by Halifax, as they were not so unusual as to amount to a significant deviation in the way the account was normally run. However, by the time Mr D came to make the payment of £7,400 on 4 January 2022, it then marked a significant increase in spending, so I think Halifax ought to have intervened at this point to question Mr D around the nature of the payment.
- However, even if Halifax *had* intervened at this point and asked further questions about the nature of the payment Mr D was making, I’m not persuaded it would have likely stopped him from proceeding or have ultimately prevented his loss. I say this for a few reasons. First, Mr D was able to make several withdrawals throughout the duration of the scam, which he said was a simple and easy process and reassured him into thinking there would be no issues with this later on. So, if Halifax had warned him about not being able to withdraw his money, I don’t think it would have led him to believe he was being scammed given he had been able to make withdrawals.
- Mr D said he had already carried out research on the broker and found only positive reviews. The investment had also been recommended to him by a trusted friend, who had told Mr D that he was making good returns from his investment. So, there would

have been little reason for him to suspect he was being scammed if he believed this to be the case, particularly when he had already carried out his own research.

- So, even if Halifax had intervened and provided Mr D with a scam warning, I'm not persuaded that any further checks he could have carried out would have revealed that he was likely being scammed. Therefore, I don't think Halifax's failure to intervene can reasonably be considered as the proximate cause of Mr D's loss in these circumstances, as it seems likely he would have proceeded to make the transactions irrespective of any intervention by the bank.
- I understand Mr D subsequently fell victim to a further scam when he was attempting to recover the money he had lost to the investment scam, and made payments of £4,200 and £5,150. However, I don't think these payments would have appeared unusual or out of character, particularly as they were then being sent to a well-established payee on his account (Coinbase) whom Mr D had paid before. So, I don't consider Halifax were required to intervene in any of these further scam payments either.
- Mr D is also unhappy with the service he received from Halifax as he says he didn't receive any response after emailing the bank in April 2022 to report the scam. However, Halifax has explained that in its banking app they provide a contact number plus the email address for Action Fraud. It does not provide an email address to contact the bank, so this is likely why Mr D didn't get a response from Halifax if his email went to Action Fraud. I also note that his call with Halifax was disconnected before he was able to report that he had been scammed. So, I'm not persuaded Halifax has done anything wrong here with regards to the service it has provided.
- I've also considered whether Halifax could have done more to recover the funds after Mr D reported the fraud. However, in this instance we know the money was quickly transferred out of the receiving Coinbase account and then sent to the scammer, so there would have been no prospect of Halifax recovering the money either.

I appreciate this will likely come as a disappointment to Mr D, and I'm sorry to hear he has been the victim of a cruel scam. However, I'm not persuaded that Halifax can fairly or reasonably be held liable for his loss in these circumstances.

### **My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 30 October 2023.

Jack Ferris  
**Ombudsman**