DRN-4360835

The complaint

Mrs A complains that Bank of Scotland plc trading as Halifax didn't do enough to protect her when she fell victim to a scam.

Mrs A is represented by a third-party in bringing this complaint. But for ease of reading, I'll refer to Mrs A throughout this decision.

What happened

Mrs A was contacted by someone offering a task-based job opportunity where she would be paid to complete tasks such as on-line reviews. Mrs A didn't think this was unusual as she had been looking for a job and had entered her details on some job sites. She was attracted to this opportunity as she could work from home and still care for her family.

To get paid Mrs A needed to pay an advance fee – which she did. Initially things seemed to go as planned and Mrs A received some payments for the tasks she completed. Ultimately Mrs A made around 13 payments over three days totalling £21,990.84.

Mrs A discovered she had been a victim of a scam when she was told she needed to pay more money to get paid and when she tried to withdraw money all contact with the scammer was cut off. She complained to Halifax as she didn't think it had done enough to protect her from falling victim to the scam.

Halifax didn't uphold the complaint. It said that the initial payments Mrs A had made were low value and weren't unusual when compared to her usual account activity. But when the payments became unusual, Halifax spoke to Mrs A and she said she was investing money – something she'd done before, and was making some good returns. She also said that no one else was involved in the payments. So, Halifax let the payments go through. Unhappy with the response Mrs A referred her complaint to this service.

One of our investigators looked in the complaint but he didn't uphold it. He noted that Halifax had contacted Mrs A in relation to two of the larger payments she was making and had asked her several questions about the purpose of the payments. And based on the answers Mrs A gave, he didn't think Halifax should have uncovered that Mrs A was a victim of a scam. He also said that as Mrs A's payments initially went to a legitimate cryptocurrency trading platform, he didn't think Halifax would have been successful if it had tried to recover the funds when Mrs A contacted it about the scam.

Mrs A didn't agree. She acknowledged that some of the payments were not high enough in value to have caused Halifax any concern. But she thought the frequency of the transactions thereafter should have raised concerns. And she said that if Halifax had asked more contextualised questions in relation to the payments and queried other payments, it would have uncovered the scam. The investigator considered the points raised but he felt Halifax had asked sufficient questions based on the answers Mrs A gave, so it wasn't able to stop payments she had authorised.

Mrs A asked for an ombudsman to review the complaint, so the case has been passed to me for a final 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've reached the same overall conclusion as our investigator for largely the same reasons. I appreciate that Mrs A will be disappointed as there is no dispute that she has been the victim of targeted scam. But I can only hold Halifax responsible if I thought it had done something wrong or treated Mrs A unfairly. And I don't think it did. I'll explain why.

It's not in dispute that Mrs A authorised the payments in question. She sent several faster payments totalling £21,990.84 to an account she held elsewhere that subsequently went to a scammer (although Mrs A did receive payments totalling £546 so her loss is £21,444.84).

While I accept that Mrs A didn't intend for her money to go to a fraudster, under the Payment Service Regulations 2017, Mrs A is presumed liable for the loss in the first instance as the payments were authorised by her. This remains the position unless there is sufficient evidence that Halifax should fairly and reasonably have done more to protect her.

To explain, taking into account regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time these payments were made, I think Halifax ought, fairly and reasonably, to have been on the lookout for out of character and unusual transactions and other indications that its customer might be at risk of financial harm from fraud. With that in mind, I've considered whether Halifax should have considered the payments Mrs A made as being so unusual or uncharacteristic that it ought to have given Halifax sufficient grounds for suspecting fraud.

Mrs A has accepted that the initial payments she made were low value and wouldn't have raised any specific concerns with Halifax. With regards to the remaining payments, it's not in dispute that some of the payments were unusual given they did trigger Halifax's fraud prevention systems, and this led to Halifax speaking to Mrs A on two occasions. So, I've considered whether Halifax went far enough in all the circumstances with its interventions.

Mrs A says that Halifax didn't ask enough contextualised questions and didn't provide appropriate scam warnings. So, I've looked at the transcripts of the calls Halifax had with Mrs A. And I note that in the second call Mrs A confirms the payment was being made to her own cryptocurrency account, that no one had helped or advised her to make the payment, and that she is making the payment entirely under her own instruction. Mrs A also said she and her husband had invested in this kind of cryptocurrency investment before. I've also seen that Halifax provided Mrs A with an investment scam warning which Mrs A acknowledged.

I've thought about this carefully. And I acknowledge that Halifax didn't question every payment made – in particular, Mrs A mentions the payment of £5,131 which was authorised by her in between the two payments Halifax did question. And I accept that Halifax could have asked more questions in the first call. But all these payments were made on the same day, so I think its most likely Mrs A would have answered in the same way as mentioned above had more questions been asked in the first call and if Halifax had contacted her about the £5,131 payment.

I acknowledge that Halifax provided an investment scam warning rather than a tailored warning for the type of scam Mrs A was involved in. But Mrs A didn't explain that she was making the payment because of an employment opportunity – she indicated she was investing her money. Given the answers Mrs A gave, I'm not persuaded Halifax acted unfairly in providing an investment scam warning.

Even if Halifax had gone further with its intervention, I find it unlikely that Mrs A would have been upfront about what she was doing. So, overall, I'm not persuaded - even if Mrs A was asked more questions about any of the payments she authorised, that the outcome would have been any different. As a result, I don't find Halifax can fairly be held liable for her loss.

I've considered whether Halifax did enough to try and recover the funds after the fraud was reported. However, I don't think it would have likely had any success in doing so. Mrs A's payments were faster payments sent to an account in her own name and were subsequently sent quickly onto the scammer. Therefore, I'm not persuaded Halifax could have reasonably done anything to recover Mrs A's payments in these circumstances.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 4 January 2024.

Sandra Greene
Ombudsman