

The complaint and what happened

Mr B complains Bank of Scotland plc trading as Halifax won't reimburse just over £47,000 that he lost when he fell victim to an investment scam. This happened in early 2021, when Mr B was persuaded to invest into crypto currency.

Our investigator didn't uphold the complaint, as although the bank intervened in some of the payments, Mr B hadn't been honest when discussing those with it. The investigator therefore wasn't persuaded the bank could have done anything further.

Mr B's representative disagrees and has argued that the bank should have asked open ended questions and realised that payments were being made using remote access software. Had it done so, it considers Mr B's losses would have been prevented.

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.

Although I have only summarised the background and arguments above, I have read and considered what's been provided. Having done so, I broadly agree with the outcome reached by the investigator, and I won't be upholding the complaint for the following reasons:

- There doesn't appear to be any dispute Mr B has been scammed. There are numerous instances of the 'broker' Mr B was dealing with being mentioned by other people who have been scammed. And contrary to his representative's assertions, this includes on the website he says he reviewed, which included negative scam reviews during the period the payments in dispute were sent.
- There is also no dispute that Mr B authorised the payments in question. Whilst he didn't intend to get scammed, he is presumed liable for the loss in the first instance.
- The bank is aware of our approach of expecting it to fairly and reasonably have been monitoring accounts to counter various risks, have systems in place to identify unusual transactions or other indicators that its customers were at risk of fraud, and in some situations, make additional checks before processing payments, to protect customers from possible financial harm from fraud or scams.
- Mr B made an initial payment of around £200 to the scam which hasn't been complained about. And Mr B's representative accepts the next payment of £2,000 also didn't look so suspicious in nature that the bank ought to have paused the payment. But the representative thinks the next transaction of £5,000 to a crypto currency exchange ought to have done.
- I agree and so does the bank, as it did pause the payment to question Mr B about what was happening. And having seen a transcript of the call, whilst the examples given by the bank didn't necessarily match the scam Mr B was falling victim to, it did ask open questions, which weren't responded to honestly. After being reassured by Mr B that he wasn't making his investment at the behest of anyone else – when he was - the payment was processed as per his instructions.
- The bank also stopped a later, much higher payment, as it looked suspicious. And despite being told of the need to be honest with the bank, Mr B again didn't answer

the questions it posed truthfully, including whether anyone had called him up and advised him how to use his crypto account.

- On each occasion, Mr B was told by the bank that the payment it had paused had a high risk of being fraudulent and that it wouldn't be able to refund money if it turned out to be a scam, particularly if he wasn't truthful with it. Even though Mr B was warned of potential consequences, he nevertheless didn't answer honestly. Had he been truthful about how events had unfolded, that he was at the very least being instructed on what to do, with the scammers also making the investments, I'm satisfied the bank would likely have recognised the hallmarks of a scam and could potentially have unravelled it and prevented further loss.
- But Mr B presented himself as someone who was investing of his own volition without the help of anyone else. Despite the bank being clear it was trying to prevent a fraud or scam Mr B didn't help it to help him. So even had the bank asked better or more probing questions, I'm not persuaded Mr B would have been any more forthcoming such that the bank could have prevented the loss.
- I recognise Mr B has lost a lot of money and I do have sympathy for the situation in which he finds himself. But as I'm not persuaded any additional questioning from the bank would have resulted in Mr B acting differently, I don't fairly find it should reimburse any of his losses.

My final decision

For the reasons given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 27 November 2023.

Claire Hopkins
Ombudsman