

The complaint

Mrs R complains that Royal Bank of Scotland plc trading as Halifax ('Halifax') won't refund the money she lost.

What happened

What Mrs R says

Mrs R says that she has fallen victim to two separate scams between December 2020 and April 2021. She says her total loss is £24,088.61.

Scam 1 – payments from 7 December 2020 to 13 January 2021 – payments to four payees

Mrs R says that she heard a radio advert for a trading site I'll refer to in this decision as L. She called the number provided and was asked to complete an enquiry form. Mrs R also says she looked at L's website and at some reviews. A representative of L asked Mrs R to download a screen sharing app and showed her a trading account. Mrs R says she thought L was trading in gold, oil and currency on her behalf and that she was able to see the profits that were being made in her account – which at one point rose to over £98,000. Mrs R was able to withdraw profits of £2,227.44.

All the payments made were card payments, with the majority going to a company which I'll refer to in this decision as P. Mrs R says she ran out of funds and borrowed money when she was told that if she didn't pay more, she'd lose all the funds in her trading account. Eventually, the representative of L stopped contacting Mrs R.

Scam 2 – payments from 2 February 2021 to 6 April 2021 – payments to five payees

Mrs R says that a friend introduced her to a company I'll refer to in this decision as C. A representative of C told Mrs R that she should buy cryptocurrency and again Mrs R was asked to use a screen sharing app to complete the trades. Mrs R could see profits on a platform and was able to make a withdrawal. But Mrs R says that when she wanted to withdraw more money the representative of C ended all contact with her.

The payments Mrs R made were mainly by card, but she also made a couple of faster payments. Mrs R bought cryptocurrency from various exchanges and made further payments to P.

Mrs R says she called Halifax to raise a scam claim in May 2021, but Halifax was dismissive and didn't help her. She later appointed a representative, who sent a letter of complaint to Halifax in April 2022 saying that Halifax failed to give proper advice about the unusual transactions Mrs R made.

What Halifax say

Halifax didn't agree to refund any of Mrs R's loss. It said that when it received Mrs R's letter of complaint in April 2022 it was outside the 120-day limit to raise a chargeback and that the transactions made by Mrs R weren't unusual or out of character. Halifax also say that when Mrs R called in May 2021, she said she hadn't received jewellery from someone she'd found on a social media platform and had been told to log into various accounts, after which she found funds had been removed (£873.90 to a cryptocurrency exchange). The line dropped and Halifax was unable to contact Mrs R after this, so no further action was taken.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. She wasn't persuaded Halifax ought reasonably to have concluded that Mrs R was at risk of financial harm at the time she made the payments. The investigator also said Mrs R wouldn't have a valid chargeback claim against the providers of cryptocurrency. In respect of other payees Mrs R's funds went to, the investigator said Mrs R would need to provide evidence of the non-receipt of goods, but she has said she wasn't expecting to receive any gold.

Mrs R was unhappy with the investigator's findings and asked for a final decision, so her complaint has been passed to me. She asked that her complaint be considered compassionately and set out the impact losing her pension funds has had on her. Mrs R discussed how professional the representatives of L and C were and the service provided by Halifax when she first made a scam claim.

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.

I'm sorry to hear about Mrs R's loss but I can only direct Halifax to refund her if it can fairly and reasonably be held responsible for them.

I'm satisfied Mrs R authorised the payments she has asked this service to consider (including the final payment when Mrs R says she thought she was getting a refund in respect of some jewellery). Under the Payment Services Regulations and the terms and conditions of her account, Mrs R is presumed to be liable for her loss in the first instance. And under the terms and conditions of the account Mrs R held with Halifax, where a valid payment instruction has been received, Halifax's obligation is to follow the instructions that Mrs R provides.

But, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for Halifax to take further steps or make additional checks before processing a payment in order to counter various risks including anti-money laundering, countering the financing of terrorism and preventing fraud and scams.

The Lending Standards Board's Contingent Reimbursement Model Code (CRM Code) doesn't apply in this case. This is because the majority of the transactions Mrs R made were card payments and these aren't covered by the CRM Code. The faster payments Mrs R made were to accounts in her own name and the CRM Code only applies to payments to another person.

It's unclear from the evidence provided whether Mrs R is the victim of a scam and whether all the loss reported to this service is Mrs R's. The reason for my concern is the fact the only evidence provided by Mrs R is a receipt for the purchase of 50g of gold from P, which appears to be a genuine company based abroad, dated 22 December 2020, and an agreement with L relating to the recovery of funds. But this agreement is dated 23 August 2021 – which is well after the transactions Mrs R has asked this service to consider. When she brought her complaint to this service Mrs R had a representative who referred to many documents provided to Mrs R and to communications with her, but nothing more has been provided. And in response to questions asked, Mrs R has confirmed to this service that she was trading in gold and never expected to receive any. This contradicts the limited evidence provided.

Mrs R's representative also set out two different scams Mrs R says she fell victim to, but Mrs R hasn't provided any evidence at all from either of the two companies involved (L and C in the section above). Also, although two separate scams were discussed Mrs R continued to pay the recipient of scam funds in the first scam (P) right up until April 2021, which seems

very odd. It also doesn't make sense that Mrs R bought cryptocurrency when she was investing in gold and oil and no plausible explanation has been provided for this.

On the evidence available it's hard to conclude Mrs R was the victim of a scam(s) but, even if she was, it doesn't make a difference to the outcome of this complaint. I'll explain why.

I appreciate Mrs R made multiple transactions over a period of around four months but many of them were low in value and Halifax blocked certain payments and spoke to Mrs R about them. I'd expect the level of checks completed to be proportionate to the value of the transactions and the risk posed and consider Halifax's interventions were appropriate. On some occasions Halifax simply sought to establish that it was Mrs R who was completing the transaction. At other times, Halifax went further.

In a call about a transaction to P for £888.40 Halifax asked what Mrs R was buying, if she was buying gold herself and whether she'd bought it before. Mrs R confirmed the gold was for her and that she bought it regularly. The Halifax agent also checked if Mrs R had made the previous £88.42 and £221.07 transactions to P during the call (which were the first two payments to P and the first two transactions raised as scam transactions by Mrs R). Given the name of the recipient and the relatively low value of the transaction I don't consider Halifax ought reasonably to have gone any further. The conversation also meant that Halifax could be more comfortable about future payments to the same recipient. In another call relating to a transaction to P, Mrs R was asked if anyone had contacted her asking her to make the payment and whether she'd researched P to ensure it was a genuine company.

Transactions to P rose in value to £4,531.21, but by the time of this transaction P was an established payee and Halifax had satisfied itself that Mrs R was making the payments to P and what they were for. Payments to all other recipients were for less than £1,000 so didn't stand out as particularly unusual. Halifax blocked some of them though and had further conversations with Mrs R about them. Nothing concerning was raised that ought reasonably to have led Halifax to take any additional steps.

Overall, I don't consider Halifax ought reasonably to have done any more to prevent Mrs R's loss. It intervened appropriately and there wasn't anything concerning about the responses Mrs R gave. Given that Mrs R repeatedly referred to buying physical gold in calls to Halifax, I also can't see that any further questioning would have led to the circumstances set out in the "*What Mrs R says*" section above being uncovered.

I agree with the investigator that Mrs R doesn't have a valid chargeback claim against any of the recipients of her funds. The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder. Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

The cryptocurrency exchanges Mrs R sent funds to provided the services they were meant to in supplying cryptocurrency. To raise a claim against P, Mrs R would need to provide evidence to support her claim that the gold wasn't received and that she'd tried to recover her funds. But Mrs R has been clear that she wasn't expecting to receive gold and hasn't provided any evidence in respect of P. In addition to these points, Mrs R was outside the timescales allowed. The only payment she disputed with Halifax in time was to a cryptocurrency exchange. No other transactions were discussed in this call.

It's also clear that Mrs R received funds from third parties before making some of the transactions she's asked Halifax to refund. If I was satisfied Mrs R was the victim of a scam and that Halifax was responsible for her loss, I'd need to understand what Mrs R's actual loss was, but as this isn't the case, I don't need to consider this point any further.

Mrs R has raised poor service by Halifax and said it failed to respond to her, but I haven't seen evidence of this. Halifax has provided evidence to show that Mrs R contacted it in May 2021 to say that she'd received contact from someone she had bought jewellery from saying it was unavailable. Mrs R said she was asked to log into her cryptocurrency account. Halifax advised Mrs R to contact the cryptocurrency exchange involved but the line dropped before the call was completed. I have seen evidence to demonstrate that Halifax tried to contact Mrs R on numerous occasions via different channels after this but without success. So, I don't consider Halifax caused a delay or didn't properly investigate a claim when Mrs R first contacted it and note that only one transaction was raised with Halifax.

Despite my natural sympathy for Mrs R and the situation she has been left in, I can't fairly find Halifax at fault or otherwise liable to recompense her.

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 8 February 2024.

Jay Hadfield
Ombudsman