

The complaint

Mr and Mrs S complain that Bank of Scotland Plc (trading as “Halifax”) have failed to refund over £50,000 they lost to an investment scam in April 2022.

The details of this complaint are well known to both parties, so I will not 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 and Mrs S authorised the disputed payments they made to their cryptocurrency wallet from their Halifax account (where the funds were subsequently transferred on to the scammer “Bit-Premium” from the crypto wallet). The payments were requested using their 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 and Mrs S 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 initial payments made by Mr and Mrs S, 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 they came to make the payment of £9,700 on 21 April 2022, this marked a significant escalation in the value of payments being made and was an unusually large amount to have been spent from the account. So, I think Halifax ought to have intervened when Mr and Mrs S attempted to make this payment.
- However, even if Halifax *had* intervened at this point and asked further questions about the nature of the payments Mr and Mrs S were making, I’m not persuaded it would have likely stopped them from proceeding or have ultimately prevented their loss. I say this because when Mrs S was questioned about the payments she was making by another bank (as part of the same scam), she was not honest or upfront about what she was doing.
- When questioned about the payment, Mrs S told her other bank that she hadn’t spoken to anyone claiming to be an investment broker, and neither had she downloaded any remote access software to her device. Both of these claims were not true, as Mrs S was in contact with someone claiming to be an investment broker, who *had* asked her to download remote access software. Mrs S has said that she was coached by the

scammer in what to say, and trusted him implicitly. This was even to the extent that she misled other lenders as to the true purpose of the loans she was taking out to fund further investments with the scammer.

- So, even if Halifax had intervened and questioned Mr and Mrs S about the payments they were making, I'm not persuaded this would've likely revealed that they were falling for a scam or ultimately prevented their loss. Therefore, I don't think its failure to look more closely into the payments can be considered the proximate cause of Mr and Mrs S's loss in these circumstances, as it seems likely they would have provided false information to Halifax as well in order to make the payments. As such, I don't consider it would be fair and reasonable to hold Halifax liable for failing to prevent the scam.
- Halifax are also under no obligation to refund the money to Mr and Mrs S under the Contingent Reimbursement Model (CRM) Code either, as the Code only applies to payments made to another person (which wouldn't have been the case here given the payments were made to Mr and Mrs S's own crypto wallet with Skrill before being moved on to the scammer).

I appreciate this will likely come as a disappointment to Mr and Mrs S, and I'm sorry to hear they've fallen victim to a cruel scam. However, I'm not persuaded that Halifax can fairly or reasonably be held liable for their 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 and Mrs S to accept or reject my decision before 31 July 2023.

Jack Ferris
Ombudsman