

**The complaint**

Mrs K complains that Bank of Scotland plc trading as Halifax ("Halifax") have failed to refund the money she lost as part of a scam.

**What happened**

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.

In summary though, Mrs K was contacted by a family member through a social media website about a potential investment opportunity. Mrs K was told to follow an "investment mentor" that I will call B. Mrs K then made the following payments using her debit card to a crypto exchange and my understanding is that the funds were then transferred to the scammer;

Transaction Number	Date	Amount	Payment Type
1	17 February 2023	£150	Debit Card
2	17 February 2023	£350	Debit Card
3	17 February 2023	£2500	Debit Card

When Mrs K did not receive the "profits" that she made she realised that she had been scammed.

Mrs K asked Halifax to refund these payments as she believes Halifax should have done more to prevent her from being scammed. Halifax did not agree with this.

One of investigators looked into this matter and he thought that whilst Halifax should have asked more questions in relation to the payments given the answers that Mrs K did provide during the calls she had with Halifax he did not think that the scam would have been uncovered or prevented.

Mrs K did not agree with this and therefore her complaint has been passed to me to issue a 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.

I am satisfied that Mrs K authorised the disputed payments she made from her Halifax account, though I accept she was tricked into making them. The payments were requested by her using her legitimate security credentials provided by Halifax, and the starting position is that Halifax 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 Mrs K from falling victim to the scam, as there are some situations in which it should reasonably have had a closer look at the circumstances surrounding a particular transaction. For example, if it was particularly out of character.

In this instance as the account had not been used to make payment for a while, I think it was appropriate for Halifax to have ensured that Mrs K was making the first two payments and I can see that it did so in the calls between her and Halifax. In relation to the third payment, I think that it should have possibly asked more questions than it did. I am mindful though that accounts that seem to be being used as a savings account, as this account appeared to be, often build up a balance before being spent in a few large transactions. So, an account not being used frequently and then being used to make large payments would not raise as many questions as an account that is used only to make regular payments and then is suddenly used to make a large transaction.

I do think some questions should have been asked about the £2,500 transaction. I have listened to the calls in question, and I can see that Mrs K was asked if she used this company before which she confirmed that she had. She was also asked if someone had asked her to make this payment or sent her a link and she confirmed that she had not even though this was not the case. I think that it is arguable that more questions should have been asked in addition to these two, but given Mrs K answer to the initial questions not being accurate I am not sure that the answers to any further questions would have altered Halifax's view that Mrs K wasn't being scammed or that it needed to provide her with a scam warning. I say this as I am unsure that Mrs K would have given accurate answers to any additional questions asked. So I think that whilst Halifax could have asked further questions about this transaction and I don't think it needed to, I am not satisfied that further questions would have stopped the scam.

I've also thought about whether Halifax could have done more to recover the funds after Mrs K reported the fraud, but in this instance for the debit card payments a chargeback would not have been successful as she received the crypto she had paid for.

Halifax are also under no obligation to refund the money to Mrs K under the Contingent Reimbursement Model (CRM) Code either, as the Code does not apply to debit card payments

I appreciate this will likely come as a disappointment to Mrs K, and I'm sorry to hear she have been the victim of a cruel scam. However, I'm not persuaded that Halifax can fairly or reasonably be held liable for her 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 Mrs K to accept or reject my decision before 8 March 2024.

Charlie Newton

**Ombudsman**