

The complaint

Miss V complains that Bank of Scotland plc trading as Halifax did not refund a series of payments she lost to a scam.

What happened

Miss V was contacted by an individual I'll call 'X' on a job-related website. She began a relationship with X, and he introduced her to an investment scheme they could use to grow their wealth in order to elope. Miss V made a number of payments using her Halifax debit card to a cryptocurrency wallet, and she then transferred the funds from the wallet to the investment scheme. After some time, she stopped receiving communication from the investment company along with those X had introduced her to and she eventually realised she had been the victim of a scam.

Miss V made 39 payments to the cryptocurrency wallet from 3 December 2020 to 14 April 2021. These payments were as follows:

- 1: 3/12/20 - £400
- 2: 3/12/20 - £400
- 3: 3/12/20 - £400
- 4: 5/12/20 - £400
- 5: 10/12/20 - £400
- 6: 14/12/20 - £400
- 7: 14/12/20 - £400
- 8: 14/12/20 - £400
- 9: 16/12/20 - £130
- 10: 16/12/20 - £10
- 11: 16/12/20 - £50
- 12: 17/12/20 - £600
- 13: 18/12/20 - £600
- 14: 21/12/20 - £600
- 15: 21/12/20 - £600
- 16: 21/12/20 - £30
- 17: 28/12/20 - £600
- 18: 29/12/20 - £300
- 19: 28/12/20 - £600
- 20: 1/1/21 - £350
- 21: 1/1/21 - £600
- 22: 10/1/21 - £300
- 23: 19/1/21 - £350
- 24: 19/1/21 - £600
- 25: 24/1/21 - £600
- 26: 24/1/21 - £300
- 27: 6/2/21 - £300
- 28: 26/2/21 - £300

- 29: 5/3/21 - £100
- **30: 5/3/21 - £867.15**
- **31: 5/3/21 - £50**
- **32: 12/3/21 - £150**
- **33: 12/3/21 - £896**
- **34: 12/3/21 - £30**
- **35: 15/3/21 - £500**
- **36: 19/3/21 - £930**
- **37: 26/3/21 - £930**
- **38: 1/4/21 - £950**
- **39: 14/4/21 - £1,750**
- **40: 14/4/21 - £1,050**

Miss V raised a claim with Halifax in 2023 and they explained they could not recover the funds, as she had paid by debit card for what was initially a legitimate service. However, the funds were then lost when she transferred the funds to the scammers.

Halifax did agree they could have intervened when the value and velocity of the payments began to increase. They felt this was from the 30th payment onwards, which have been highlighted in bold in the table above. However, they felt that Miss V also could have done more to protect herself against the scam, so felt the refund should be reduced by 50% to account for her contributory negligence. This resulted in a total refund of £4,051.58 which has been paid to Miss V.

Miss V referred the complaint to our service and our Investigator looked into it. They agreed with what Halifax had done so far to resolve the complaint and did not recommend an increase in the refund. They agreed that Halifax should have intervened from the 30th payment so a refund should apply from then, and that it was fair for the redress to be reduced by 50% to account for Miss V's liability.

Miss V disagreed with the outcome, so the complaint 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 looked over the messages between Miss V and X, I'm satisfied she has been the victim of an investment scam, and I'm sorry she's had to go through this experience.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

Broadly speaking, the starting position in law is that an account provider is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the account. And a customer will then be responsible for the transactions that they have authorised.

It's not in dispute here that Miss V authorised the payments in question, as she believed they

were part of a legitimate investment. So, while I recognise that she didn't intend the money to go to scammers, the starting position in law is that Halifax was obliged to follow Miss V's instruction and process the payment. Because of this, she is not automatically entitled to a refund.

The regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams. So, I've thought about whether the redress Halifax has already paid reflects what they should have done to keep Miss V's account safe.

I've reviewed the transactions in comparison to the genuine account activity on Miss V's account. Miss V regularly made payments from her account for around the same, average value of the scam payments. The majority were not of a particularly high value so I don't think Halifax should reasonably have flagged them as unusual. But I acknowledge the number of payments increased and as they did so, the value of them started to rise. With this in mind, I agree that the 30th payments onwards is a reasonable point at which Halifax could have intervened to carry out further checks about the payments prior to processing them. So, I agree Halifax missed an opportunity to reveal the scam and it should refund Miss V from the 30th payments onwards.

I've finally considered whether Miss V should reasonably bear some responsibility for the losses as a result of any negligence in her actions and if it is therefore reasonable for me to make a reduction in the award based on this. In doing so, I've considered whether Miss V has acted as a reasonable person would to protect herself against the loss she suffered. The test is objective but needs to take account of the relevant circumstances.

Unfortunately, Miss V has not provided us with any communication between herself and the 'investment company', so it isn't possible to see exactly what she was promised. She has said that X told her they would become rich by trading in cryptocurrency and she trusted what he said. But it does not appear that she carried out any due diligence other than trusting X. So, I don't think she has reasonably protected herself from the scam and, on balance, she has contributed to the loss. Because of this, I think it was reasonable for Halifax to apply a 50% reduction to the redress.

Having carefully reviewed everything, I agree that what Halifax has done so far to resolve the complaint is fair and in line with what I would have recommended in the circumstances. So I do not recommend that they take any further action to remedy it.

My final decision

I do not uphold Miss V's complaint against Bank of Scotland plc trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss V to accept or reject my decision before 5 April 2024.

Rebecca Norris

Ombudsman