DRN-4862937

The complaint

Mr G, through a representative, complains that Bank of Scotland plc trading as Halifax ("Halifax") have failed to refund money that he lost due to scams.

What happened

The circumstances of the matter are well known to both parties so I will not go into too much detail as to what happened.

But in summary, Mr G's representative explained that Mr G was on a well-known social media platform when he was approached by a woman. After a period of chatting with this person they became friends. She then mentioned that she made considerable money investing in a Bitcoin trading company that I will call B. This friend showed Mr G that she had made substantial profits from B. My understanding is that Mr G made 12 card payments totalling over £9,000 to a crypto exchange, where the funds were converted into crypto and sent to B. Mr G says he at one point had a "profit" of over £75,000. But when he tried to withdraw this profit, he was told he had to pay a withdrawal fee. At this point he realised that he would not be able to get his profits.

Whilst this scam was in progress Mr G was approached on the same social media provider by a different woman. Again, Mr G became friends with them. After a period of chatting, they introduced Mr G to what he refers to as an income opportunity with a company I will call C. He says he was told that he and his new friend could get access to $130,000USD in a cold crypto wallet online, if they paid a series of fees. Then he was told that a new person had taken over the cold wallet and he would have to pay further fees. In total, Mr G made five payments amounting to over £5,000 to crypto exchanges. His money was then converted into crypto and then sent onto C. Subsequently C disappeared and stopped interacting with Mr G and he did not receive the promised $130,000USD.

Then the same "friend" introduced him to another crypto investment firm that I will call D. Mr G made a number of card payment totalling over £1,270 to a crypto exchange, the funds were converted into crypto and then sent onto D. Again, he was told he would have to pay a series of fees in order to receive his profits. He did not receive his profits.

All three of these scams took place between February 2023 and November 2023.

Mr G realised that he had been scammed by both of his "friends". So he raised a complaint, via a representative, with Halifax, as he believed that Halifax should have stopped him from making the payments in question.

One of our investigators looked into this matter and they decided that had Halifax intervened and provided a warning it would likely not have stopped the scam.

Mr G, did not agree with this and therefore his complaint was passed to me to issue 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 done so, I agree with the conclusions reached by the investigator for the following reasons.

It isn't in dispute that Mr G authorised the disputed payments he made (where his funds were subsequently transferred on to the scammers from his crypto wallet). The payments were requested by him using his 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 G 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 transaction. For example, if it was particularly out of character.

In this instance the initial 11 payments were not unusual enough to have prompted an intervention. They were not large enough individually and the pattern of the payments was not sufficiently indicative of a scam for Halifax to have needed to intervene. That said, I think that Halifax should have intervened on 14 March 2023 when Mr G made a payment of £2,500 as part of scam C.

I think that a proportionate intervention at that point would have been to provide a warning setting out the general features of a crypto scam. But had it do so, I don't think that an intervention would have altered Mr G's decision to carry on with the transactions in question. I say this for a number of reasons. Firstly, it seems unlikely to me that the warning would have resonated with Mr G at the time in relation to scam C. I say this because he was not investing in a crypto firm that would trade on his behalf in relation to this payment. Instead de was paying so that he would get access to a crypto wallet.

Nevertheless, I have considered whether such an intervention may've then stopped him making further payments to B or stopped him from even starting to make payments to D. I say this because scam B was in progress at this point and he made further payments to them after this point. Scam D had not yet started.

I have carefully considered this and on balance I don't think that a scam warning would have stopped any of the scams. I say this because Mr G had been the victim of a very similar scam to scam B and D in 2022, which Halifax refunded in part and was subsequently referred to this service. And yet despite this, Mr G still decided to send money to people on social media, who he'd not met in person, and were telling him about similar ways he could make money from crypto. So Mr G was clearly already aware of the general features of crypto scams by the time scam C, B and D occurred. So I don't think it's likely that Mr G being further reminded by Halifax of what a crypto scam looks like, would have changed his decision to send money to these people on social media.

This is further demonstrated by Mr G being aware that B was a scam and yet agreeing to send money for a very similar reason with D, around 7 months after he stopped sending funds to B. So had a warning been given by Halifax I don't think it would alter Mr G's decision to continue with the transactions in question.

Looking at the payments in question I don't think that there needed to be a further intervention after 14 March 2023 given the pattern of further payments and their size. So overall I think that Halifax did need to intervene once and provide a warning but this would not have stopped the scams.

I also considered whether Halifax owed Mr G an extra duty of care as it was aware that he had previously been scammed. But overall, given the gap between the scam in 2022 and when Mr G was scammed in 2023, I don't think that Halifax should have been concerned that the payments made to the crypto exchanges were linked to the previous scam, and in any event they weren't. Indeed, the fact that Mr G had so recently been a victim of an almost identical scam, and had even complained about Halifax's handling of matters, by 2023, I think it's fair to say that Mr G probably had a greater appreciation of the typical features of a crypto scam than most consumers.

I have further considered whether Halifax should have been monitoring Mr G's account as he mentioned to them in June 2023 that he was having relationship issues and was struggling with his finances. I wouldn't necessarily expect Halifax to start proactively looking for suspicious transactions just because Mr G told them that he was having relationship issues. But I would expect Halifax to have offered Mr G with support when he told them about his financial difficulties. And I see that he was offered a referral to a specialist team at Halifax to help him, which seems a reasonable step to take.

But from what I have seen, I don't think there was anything that ought to have made Halifax aware Mr G was no longer able to make financial decisions for himself or that he needed his online banking or ability to send funds curtailed. And due to the size of the payments, I don't think Halifax should have stopped his payments after this point.

I've also thought about whether Halifax did enough to attempt to recover the money Mr G lost.

In this instance, the debit card payments could potentially have been recovered by a chargeback. But in this case, a chargeback would not have been successful, as the transactions Mr G used his debit card for was to pay for the purchase of cryptocurrency, which he duly received. It was only when the cryptocurrency was transferred from his crypto wallet to the scammer did the loss then occur. So, he could not claim that he did not receive the goods or services paid for from his Halifax account, which was either transferring funds to the crypto exchange or the purchase of the cryptocurrency. As a result, I don't think Halifax have acted unreasonably by failing to pursue a chargeback claim here.

I appreciate this will come as a disappointment to Mr G, and I'm sorry to hear he has been the victim of a number of cruel scams, again. However, I'm not persuaded that Halifax can fairly or reasonably be held liable for his 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 G to accept or reject my decision before 10 January 2025.

Charlie Newton
Ombudsman