

The complaint

Mr D complains that Bank of Scotland plc, trading as Halifax, won't refund the money he lost when he was the victim of what he feels was a scam.

What happened

In August 2020, Mr D was told about an opportunity to invest in a property development by a property investment company he was speaking to. He was told the property developer was building a number of apartments and that he would receive returns from renting out the apartment he purchased, once it was complete. And as he was happy to proceed with the investment, Mr D then made a number of payments from his Halifax account to a solicitor, to pay for the deposit on an apartment.

I've set out the payments Mr D made from his Halifax account below:

Date	Amount
25 November 2020	£25,000
26 November 2020	£9,500
16 March 2021	£10,000

Unfortunately, the property development was never finished, and a receiver was appointed over the developer. Mr D then reported the payments he had made to Halifax as a scam and asked it to refund the money he had lost.

Halifax investigated but said Mr D had made the payments to a genuine solicitor and the property developer appeared to be a genuine company. So it felt this was a civil matter between Mr D and the developer, rather than a scam, and it didn't agree to refund the payments he had made. Mr D wasn't satisfied with Halifax's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think there was enough evidence that the payments Mr D made to the solicitor were passed to the property developer for the purchase of an apartment. And they didn't think Halifax would have had reason to be concerned if it had asked questions when the payments were made. So they didn't think Halifax should have to refund the money Mr D had lost. Mr D disagreed with our investigator, so the complaint has been passed to me.

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.

Mr D also complained about another payment he made out of his account, directly to the property developer. But as this payment has been returned to him and so he has not suffered a financial loss as a result of it, I haven't considered it any further here.

Mr D says the three payments set out above were made to a solicitor, who then sent the money on to the property developer to pay for the deposit on an apartment. But from what I've seen, the money from these payments doesn't appear to have ever been paid into the account for the property developer Mr D has suggested. And Mr D hasn't been able to provide any evidence that the money was sent to the property developer in some other way. So I can't see that these payments Mr D has complained about were connected with the property development or made to pay for the deposit, as he has suggested.

As I don't think we have sufficient evidence to show what these payments were for, I don't think I can safely conclude that they were made as a result of a scam. And so I don't think it would be fair to require Halifax to refund them.

In any event, even if there was sufficient evidence that these payments were made as a result of a scam, I still don't think it would be fair to require Halifax to refund them.

At the time the regulatory landscape, along with good industry practice, set out requirements for banks to protect their customers from fraud and financial harm – including to monitor accounts to look out for unusual transactions and, in some circumstances, take additional steps or make additional checks to help protect customers from the possibility of financial harm from fraud.

But even if Halifax had identified that Mr D was at risk of financial harm as a result of these payments and carried out the level of checks I would expect, I don't think it would have uncovered significant concerns.

In these circumstances and given the size of the payments Mr D was making, I think it would be reasonable to expect Halifax's checks to include questions about the purpose of the payment and then relevant follow-up questions about the investment Mr D thought he was making and what checks he had done to satisfy himself it was genuine.

But Mr D thought he was helping fund the development of a property and would receive returns once the property was built. And as this is a fairly standard format of investment, I don't think this will have seemed particularly suspicious to Halifax.

Mr D had been introduced to the investment opportunity by what appears to be a genuine property investment company and was sending the money through what appears to be a genuine solicitor. So I think this would have reassured Halifax that the people Mr D was dealing with were genuine.

At the time, the property developer had been listed on the government's register of limited companies and filed accounts for a number of years. And I wouldn't necessarily expect this of a company intending to operate a scam. So, if Halifax had suggested Mr D check this when it asked about the payments, I think this would also have reassured both Mr D and Halifax that the developer was genuine.

Mr D has also sent us copies of some of the paperwork he was sent about the property development, including a contract, property report and calculation of the returns he could expect. And I think this all looked relatively professional and legitimate. So, if Halifax had asked to see evidence of any paperwork or asked about the returns Mr D was promised, he would have been able to provide this and I don't think it would have caused Halifax any concern.

So if Halifax had carried out the checks I would've expected when Mr D tried to make these payments, I think it would have been satisfied with the information it was given and I don't think anything it was told or shown would've caused it significant concern. Based on the

information I would have expected it to uncover at the time, I think this would have looked like a genuine investment to Halifax. And so I wouldn't have expected it to stop Mr D making the payments.

I therefore don't think Halifax would have acted unreasonably in allowing these payments Mr D made to go through, even if there was sufficient evidence the payments were made as a result of a scam.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 1 November 2024.

Alan Millward
Ombudsman