

The complaint

Mr N complains that Bank of Scotland plc trading as Halifax ('Halifax') won't refund the money he lost after falling victim to a scam.

What happened

Mr N says that in 2020 he heard about an investment opportunity from a friend. He was introduced to a person who I'll refer to as G. Mr N says G was known in the community and a relation of his had started investing with her.

What Mr N told our service

- He spoke to G about her previous investment successes and was shown photos of the properties she had invested in.
- G didn't have any formal brochures but explained how it would work.
- G would buy supported housing properties from the government at an 80% discount, renovate them, rent them out and then sell them back to the government for a profit.
- Mr N initially invested and started getting the return he expected of £600 per month (from a £25,000 investment), which was supposed to run for a 12 month period.
- Shortly after his initial investment G approached Mr N about another property and Mr N invested again.
- G told Mr N about other professionals involved and often asked him to pay money directly to them.
- Mr N continued to receive returns for seven to eight months and got other friends and family to invest.
- Mr N made some of his investments in cash and got cash returns on those investments. Mr N says that he invested around £700,000 in total.
- In March 2021, the returns stopped coming in and when Mr N asked about it, he was given a number of different excuses.
- In December 2021, G disappeared, but reappeared again in January 2022.

What Mr N told Halifax

- G's uncle had made £10,000 from a £3,000 investment in 12 months.
- G was not a professional investor or property manager.
- Mr N didn't receive any evidence of the properties being purchased or paperwork in relation to the investment.
- Mr N was told his initial investment was guaranteed, even if they didn't make a profit from a property.
- Mr N wouldn't receive a monthly income for the first year, just a lump sum when the property was sold.
- Mr N was told a company was dealing with the property purchases and renovations, but G wouldn't say the name of the company. G told Mr N that if too many people knew about it, the government would stop offering the properties.
- Mr N tried to research the investment online but found nothing.

- Mr N was told he'd get £28,000 in the first year from the first property.
- G was constantly messaging him about other properties and asked him to get other people to invest.
- G sent the property area, but never the address. Mr N would be told how much he needed to invest, what the monthly income would be and the sale price of the property.
- Mr N was told to make payments to different individuals who were friends/relatives of G, which he assumed was investment returns - but he didn't ask.
- Mr N got friends and family involved in investing as well.
- G never sent Mr N any contracts and he never signed anything, everything was done through messages.
- Mr N was suspicious when he got cash payments from G, as he had been told he would be paid by bank transfer.
- Mr N went into Halifax branches to deposit cash a few times.
- Mr N was borrowing money from other people, but they were not aware that he was investing.

Mr N separately said that friends and family who had invested were raising their own fraud claims with their banks and that he was paying back money he'd borrowed to invest.

In December 2021, Mr N raised a fraud claim with Halifax. Halifax asked Mr N for a lot of information regarding the payments he had made as part of the scam and how he had funded those payments. Halifax didn't provide a response to Mr N on his fraud claim, as they say Mr N hadn't provided satisfactory evidence or answers to their questions.

While Mr N's fraud claim was with Halifax, he engaged a professional representative to deal with his complaint.

As Halifax wasn't refunding him, Mr N brought a complaint to our service.

An investigator looked into Mr N's complaint and declined to refund him. The investigator highlighted the lack of information that Mr N had about the investment before investing, saying Mr N didn't have a reasonable basis for believing the investment was genuine. They also referred to two calls Mr N had with Halifax when two of the payments he made triggered their fraud prevention system. During the first call Mr N told Halifax that he was making the payment to lend money to a family member. On the second call Mr N told Halifax he was buying jewellery. The investigator explained that as Mr N hadn't been truthful on the calls he had with Halifax, it's unlikely that if Halifax had intervened in any other payments, that Mr N would've been honest and so Halifax wouldn't have been able to uncover the scam.

Mr N disagreed with the investigator's opinion, so he asked for an ombudsman to review his case.

Mr N raised the following points:

- He is entitled to a refund under the Lending Standards Board's Contingent Reimbursement Model Code (the CRM Code).
- Our service hasn't taken an empathetic approach in considering whether Mr N did sufficient checks or in saying that he didn't have a reasonable basis for believing the investment was genuine.
- Mr N provided a list of reasons why he did reasonably believe the investment was genuine.

Having reviewed the case, I intended to reach the same outcome as the investigator but for a different reason. So, I wanted to explain my reasoning and give all parties a chance to provide any further evidence before I issued a final decision. I issued my provisional decision on 27 February 2024.

My provisional decision

In my provisional decision I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence.

I think it's important to start by explaining that Mr N's testimony about the information he was given at the time he made the payments, how he funded the payments and what returns he has received has been inconsistent. There is a difference in some of the testimony provided to Halifax when he first reported the scam, in response to questions that Halifax asked as part of their fraud investigation and testimony he's given to our service.

Based on the evidence we have I'm not satisfied I can safely conclude that Mr N was the victim of a scam as there is no evidence to support the claim he is making.

He says that G was working with a company in relation to purchasing and renovating these properties, however Mr N doesn't have a name for the company or any information about them. Mr N says properties were being purchased from the government, however there is no paperwork to evidence these transactions or any details for the properties involved. There is no evidence of any communication between Mr N and G which sets out the discussions they had, any information Mr N was given, or to the basis of a scam as Mr N has set out. Mr N says properties were being purchased, renovated, rented out and then sold, but there is no paperwork, addresses, details etc. At this stage, all we have is Mr N's testimony that he made the payments as part of a scam, with no evidence to support this. And, as previously mentioned, Mr N's testimony has been inconsistent on the details.

However, it's important to note, that even if Mr N is able to evidence that a scam took place, it's unlikely I could fairly ask Halifax to refund him. I say this because I can't see that Mr N has suffered a financial loss.

Mr N says he's lost just over £140,000 in payments made from one of his Halifax accounts. However, all of these payments have been funded by credits paid into his account that total over £160,000. These credits have individual payer names attached to them, also there appears to be at least one cash deposit to this account for over £10,000 which is likely to be part of these payments and credits.

The second Halifax account that Mr N holds, had payments made to G totalling over £76,000. However, on this account there are credits totalling in excess of £110,000, which again have individual payee names attached to them – which suggests that the money came from other people.

Mr N says he borrowed money from friends and family which he has paid back, however there aren't payments out of either of his Halifax accounts to support this position and he hasn't evidenced to my satisfaction that he has. Mr N has referred to receiving cash payments and suggested these were around £13,000 to £15,000, however this wouldn't

account for £160,000. And, I'm not satisfied that I can safely rely on Mr N's testimony that he repaid all of the parties that paid money to him without evidence to support that.

I'm also concerned that Mr N says friends and family that invested have raised their own fraud claims with their banks. This could mean that any refund to Mr N would mean that he profited from the scam, if the payers who sent him money had received a refund directly and Mr N didn't return any money to them.

Based on what I've seen, I'm not satisfied that Mr N has sufficiently evidenced that he was the victim of a scam, or that he has experienced a loss as it appears to have been other people's money that he sent to the scammer. Therefore, I can't fairly ask Halifax to refund him any money as he wouldn't be entitled to the funds.

My provisional decision was that I didn't intend to uphold this complaint.

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.

Halifax responded saying they had nothing further to add.

Mr N's response focused on the gaps in information we've been given and feels that rather than these being inconsistencies in his testimony, they are simply a lack of information or explanation in relation to some points. However, he accepted that he hadn't personally suffered a loss as a result of the payments he made and says the individuals who have suffered the loss will raise fraud claims with their banks.

I'm sorry if Mr N feels his actions are being viewed suspiciously or as unreliable. He's emphasised that he feels personal responsibility for the loss experienced by the individuals who made payments to him based on what they considered to be a genuine investment opportunity.

In response to the provisional decision Mr N provided a single screen shot taken from a chain of messages, without providing the entire chain of messages. He also provided some call recordings which he says were conversations with G.

Unfortunately, there have been some inconsistencies between what Mr N told Halifax and our service, and there has been very limited evidence provided to support the testimony he's given. It's very difficult based on the evidence we've been given to understand exactly what Mr N was told by G, what agreements were made and what he was told at the point he made the payments, which span a 12 month period.

Having reconsidered all of the information and evidence that we have, I'm still not satisfied that I can safely conclude that Mr N was the victim of a scam. More importantly, Mr N hasn't evidenced that he has suffered a financial loss as a result of the payments he's made, as they were all funded by credits to his account from other individuals. On that basis, I can't fairly ask Halifax to refund Mr N for any of the payments he's made.

My final decision

My final decision is that I don't uphold this complaint against Bank of Scotland plc trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or

reject my decision before 8 May 2024.

Lisa Lowe
Ombudsman