

The complaint

Mr and Mrs S complain that Bank of Scotland plc, trading as Halifax, won't reimburse them money they lost to an investment fraud.

As the investment was arranged primarily by Mr S, for ease, I have referred to him throughout my decision.

What happened

As the circumstances of this complaint are well-known to both parties, I have summarised them briefly below.

In August 2018, Mr S was introduced to an investment opportunity which involved the purchase of shares in a company I will refer to as business H.

Happy to proceed, Mr S made a payment of £10,000 on 21 October 2018 from his Halifax account to the account instructed by H. Mr S made a further payment of £10,000 for the purchase of shares on 21 February 2019.

Mr S says that he didn't receive any returns on his investment. Believing he'd been the victim of an investment fraud, Mr S complained to Halifax—via a representative—that it ought to have done more to protect him.

Halifax considered Mr S's claim, but didn't agree it was liable to reimburse him his loss. After considering the evidence available, it found Mr S had likely made a legitimate investment that had unfortunately failed.

Mr S didn't agree, so he referred the complaint to our service for an independent review. An Investigator considered the evidence and testimony provided by both parties, but agreed with Halifax's assessment that this was a failed investment rather than an investment fraud.

Mr S, via his representative, didn't agree. So the matter has now been passed to me to decide.

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.

Considerations

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 have been good industry practice at the time.

Mr S's representative in its submission to our service has referenced a number of codes of practice and guidance relevant at the time of Mr S making the payments in dispute. One of

the code's referenced is the Contingent Reimbursement Model Code (the CRM Code) which came into effect in May 2019. That Code wasn't being applied retrospectively, so the payments subject to this complaint aren't covered. I have therefore disregarded the provisions of that Code in my assessment.

All parties agree that Mr S made the payments subject to this dispute. So, in accordance with the Payment Services Regulations 2017 he is presumed liable for the loss in the first instance.

However, where payments present a credible risk of fraud, financial businesses such as Halifax ought fairly and reasonably to intervene in those payments, to protect its customers from financial crime and to prevent the laundering of the proceeds of crime. Where an intervention ought to have taken place, and likely would have prevented a customer from losing their funds, it may be liable to reimburse that loss.

Here, Halifax argues that Mr S made the payments for a legitimate investment that unfortunately failed. But Mr S's representative disagrees with that assertion. It says that there is sufficient evidence to support a dishonest deception here, and that the person responsible for taking Mr S's money intended to defraud him from the outset. So, I must first decide whether it's more likely than not that Mr S has either been a victim of fraud, or whether he's likely made an investment that has subsequently failed.

Was this likely a failed investment or an investment fraud?

Mr S's representative's principal argument in support of an investment fraud taking place is the involvement of a third-party I will refer to as Mr W. Mr W is alleged to have introduced Mr S to several unregulated investments—including the one subject to this complaint.

It has provided evidence in support of Mr W's bad character. That includes:

- A news article from 2022 covering an investment fraud, where one of the perpetrators convicted bears the same name as Mr W.
- An email from 2020 from a business stating that Mr W—who was a former employee at their firm—had continued to purport he worked for their business when recommending unauthorised investment products.

While I agree this causes suspicion and doubt over the legitimacy of Mr W, I can't say that's relevant to the complaint I am considering.

Mr S says he was introduced to the investment subject to this complaint in 2018. And while I have no reason to disbelieve that investment was introduced by Mr W, the evidence would suggest that that was as far as Mr W's involvement went. Mr W didn't take any direct payment for the investment from Mr S, nor can I see any evidence that he was associated with business H.

There is very limited information for me to consider here. Mr S has provided a certificate of shares from H and a chain of emails with a Director of H. None of these set out the initial investment opportunity or what Mr S was promised in return for his investment.

Nevertheless, Mr S's representative hasn't drawn our attention to any misrepresentations made by representatives of business H or produced evidence that H was operating illegitimately.

From open resource research, I can see that H—which has now changed its name—is a registered business on Companies House and remains active. I have been unable to find

any information online that would lead me to believe it was operating an investment fraud.

Overall, I'm not persuaded Mr S has been victim of a fraud here. From the evidence available to me, it's more likely than not that he has made a legitimate investment. But should any information come to light in the future that supports Mr S's assertion that he has been the victim of fraud, he does have the option of presenting this to Halifax for further review.

For the above reasons, I find that Halifax was fair in declining Mr S's claim for reimbursement, as it cannot reasonably be held liable for any losses from a legitimate investment.

My final decision

For the reasons I have given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S and Mr S to accept or reject my decision before 23 July 2025.

Stephen Westlake
Ombudsman