

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 May 2018, Mr S was introduced to an investment opportunity. The investment involved the issuance of unregulated bonds by a business I will refer to as W, promising interest payments on those bonds on a bi-annual basis.

On 23 and 24 May 2018, Mr S made three £20,000 payments from his Halifax account to the account instructed by W for the purposes of the investment.

Mr S did receive the first interest payment in July 2018, but none of the subsequent interest payments owed were ever paid.

Mr S, believing he'd been the victim of an investment fraud, contacted Halifax to complain that it ought to have done more to protect him. But after looking into Mr S's claim, it didn't agree. It found that it was more likely than not that Mr S had lost his money to a failed investment and not to fraud. It therefore didn't agree it could have done more.

Unhappy with this response, Mr S referred his complaint to our service with the help of a professional representative. An Investigator considered the evidence and testimony provided by both parties, but concluded the matter was likely a failed investment rather than a fraud.

Mr S, via his representative, disagreed. So the complaint 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 (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 it has no such liability. It says that Mr S made the payments for a legitimate investment that unfortunately failed. But Mr S's representatives disagree 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 Consultant Broker 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 was.

The investment opportunity itself was a purchase of unregulated bonds against business W that promised returns through interest payments. W was a registered business on Companies House which has since been dissolved.

I can also see that payment for those bonds was made to a business I'll refer to as business C. C appears to be a well-established registered business that is still in operation.

Open resource checks on both these businesses and their representatives haven't revealed any further evidence they were operating illegitimately or fraudulently.

Mr S's representative has provided no persuasive evidence that either of these businesses were dishonestly deceiving investors. To the contrary, I have seen professional paperwork

outlining the investment and highlighting the risk that investor funds may be lost. Mr S's representative hasn't pointed out any material falsehoods presented to Mr S in the investment information memorandum or agreement.

I can see that one interest payment was made from the business to Mr S at around the time it said interest payments would be received. This is only typically seen in investment frauds where further funds are attempting to be extracted from the victim: but no further requests for payment were made here. That would indicate that at the time Mr S made the payments, the business likely intended to honour the agreement reached.

While interest payments ceased from this point, I have seen no persuasive evidence that would rule out the possibility that this was due to the business failing. This remains a plausible explanation for Mr S losing his initial investment.

A document has also been provided showing that the bond offering was insured. The insurance and brokerage were provided by regulated firms. While I understand the insurance wasn't honoured by the underwriter, there is nothing to suggest this was falsified at the time.

In concluding, I'm not currently persuaded that Mr S has likely been the victim of fraud here. That's primarily because I cannot rule out the possibility that he has made an investment that has unfortunately failed. And there are numerous, legitimate reasons why that may have occurred.

I know that will come as a disappointment to Mr S as I can see the impact that this has had on him both financially and emotionally. But I don't find it neither fair nor reasonable to hold Halifax liable for that loss where it isn't clear that loss was a result of fraud, or where it couldn't have done anything to prevent that loss.

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 22 July 2025.

Stephen Westlake
Ombudsman