

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 I have, for ease, 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 July 2018, Mr S was introduced to an investment opportunity which involved the purchase of shares in a company I will refer to as business W. The investment was advertised as the purchase of shares in a commercial leasehold, which claimed returns of 12% per annum over a five-year period.

Happy to proceed, between 24 and 27 July 2018 Mr S made four payments from his Halifax account to the account instructed by business W totalling £80,000.

Mr S received his projected returns up until July 2019. But he says that these stopped thereafter. 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.

In its submission to our service, Mr S's representative 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 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 show 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 the investment was introduced by Mr W, the evidence would suggest that that was as far as Mr W's involvement went.

Mr S has also pointed out that a previous Director of business W had been involved in various frauds and is wanted by law enforcement in numerous jurisdictions regarding these. I have seen no evidence to support this claim. But even were I to see bad character evidence relating to a Director of business W, that isn't enough to say that Mr S has been defrauded as part of the investment he made with business W—and is subject to the complaint I am considering.

I have, however, considered a number of documents Mr S has provided, along with open-resource research, to find out more about the investment opportunity and the business that was offering it.

Business W was registered on Companies House in 2017 and remains a legal entity. I have been unable to locate any evidence via open-resource research that would indicate W was operating fraudulently.

Mr S's representative has provided our service with a number of documents regarding the investment opportunity. But it hasn't pointed to any misrepresentations made by the business in those documents. These documents did, however, include a copy of the Register of Title held at the Land Registry which confirms W's claim in its advertisement that it owned the leaseholder interest in that property.

I can also see that returns were paid to Mr S over a significant period of time, with 12% returns, amounting to £9,600, being paid over a year. This falls in line with what the business promised at the outset.

Emails Mr S has provided between representatives of W and investors suggests that returns were not paid for a period following this due to the impact of the global pandemic on profits. This continued through to 2022.

The evidence Mr S has provided strongly suggests that this was a legitimate investment, that paid dividends to investors as promised until it was severely impacted by the global pandemic. I can see no persuasive evidence that representatives of W dishonestly deceived investors or misappropriated funds. For these reasons, I find it more likely than not that this is a failed investment rather than an investment fraud.

I want to make it clear that I am not ruling out the possibility that Mr S has been the victim of fraud here. But from the evidence available to me at present, it doesn't appear likely that he is. Should further information come to light in the future that would indicate a fraud has been committed—such as law enforcement action for example—then Mr S does have the option of presenting this new evidence to Halifax for further review.

In concluding. For the reasons I have set out above, I find it more likely than not that Mr S has made a legitimate investment here that has failed. And as such, Halifax was fair in rejecting his claim for reimbursement.

My final decision

For the reasons I have set out 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