

The complaint

Mr R complains that Bank of Scotland plc, trading as Intelligent Finance, won't reimburse him for all of the payments he made to a scam.

Mr R's complaint is brought by a professional representative but for ease I will refer only to Mr R in this decision.

What happened

Mr R was introduced to a stocks and shares investment opportunity by his partner's friend who told him he'd been able to make successful withdrawals. He found no negative information online and believed it to be a good investment. Mr R made the following international payments:

Payment	Date	Type of transaction	Payee	Amount
1	3 December 2018	Faster payment	R	£11,368.80
	3 December 2018	Transaction fee		£19.50
2	18 January 2019	Faster payment	R	£80,000
	18 January 2019	Transaction fee		£19.50
		Total Loss		£91,407.80

Shortly after the final payment was made Mr R's investment account turned negative and he realised he'd been scammed.

He complained to Intelligent Finance on 10 June 2024, but he didn't receive a response within eight weeks, so he brought his complaint to this service on 10 September 2024.

Intelligent Finance then issued a final response letter – dated 30 September 2024 - and agreed that they should have done more to intervene and educate Mr R about the potential for a scam. They offered to refund half of the payments Mr R had made (£45,684) along with 8% simple interest and a refund of the transaction fees, but they didn't think they should be accountable for everything that Mr R had lost because they felt he hadn't done enough to protect himself.

Our investigator didn't think Intelligent Finance's offer was unreasonable in the circumstances.

Mr R didn't agree with the investigator. He said that Intelligent Finance had failed to protect him from fraud by taking proactive measures and he said that the failure of Intelligent Finance to intervene should outweigh his own responsibility in the case. He said Intelligent Finance should be held wholly responsible for the loss and he asked for a decision by an ombudsman.

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.

I'm sorry to disappoint Mr R but I'm not going to ask Intelligent Finance to take any further action here. I know he's been the victim of a cruel scam, but I don't believe Intelligent Finance has acted unreasonably. I'll explain why.

The Financial Ombudsman is designed to be a quick and informal alternative to the courts. Given that, my role as an ombudsman is not to address every single point that has been made. Instead, it is to decide what is fair and reasonable given the circumstances of this complaint. And for that reason, I am only going to refer to what I think are the most salient points. But I have read all of the submissions from both sides in full, and I keep in mind all of the points that have been made when I set out my decision.

Where the evidence is incomplete, inconclusive, or contradictory (as it is here), I have to make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

I'm required to take into account the relevant, laws and regulations; regulators rules, guidance, and standards; codes of practice and, when appropriate, what I consider to have been good industry practice at the relevant time.

Mr R has raised in his complaint that he should be considered vulnerable under the Contingent Reimbursement Model (CRM code).

Broadly speaking, Mr R is responsible for any payments made from his account which are properly authorised, as they were here. And Intelligent Finance has a duty to process valid payment instructions quickly and with minimal friction. These positions are set out in the Payment Service Regulations (2017).

However, taking into account the relevant law, regulations, industry guidance, and best practice, firms like Intelligent Finance ought fairly and reasonably to have systems in place to monitor transactions and accounts for signs that its customer might be at risk of financial harm through fraud. Where such risks are detected, there ought to be action from the bank to intervene through the giving of warnings and scam education. Any intervention should be proportionate to the risk presented by the circumstances of the payment.

Where there is a failure by a firm to properly intervene and protect a customer, it might then be fair and reasonable to say that the firm becomes responsible for the customer's loss. And so, in Mr R's case, it's for me to determine if Intelligent Finance made an error(s) over the course of the scam and, if so, whether it's fair and reasonable for it to be held responsible for Mr R's losses as a result.

Intelligent Finance said it could've done more to stop this scam. They accepted that they could have provided a better intervention and warned Mr R about the risk of a scam which more than likely would've uncovered the scam. I think that's a reasonable position for it to take in the circumstances based upon the payments Mr R was making. Mr R has said that Intelligent Finance's failure to act means it should carry more of the responsibility for the loss here. And that he was taken in by a sophisticated and well-orchestrated scam. But because both parties agree that more could've been done to stop the scam, I don't think I need to provide any further detail on whether Intelligent Finance should've done more here. Instead, I need to consider whether Intelligent Finance's offer of 50% of Mr R's total loss is reasonable. This means considering whether Mr R acted reasonably and whether or not he contributed to his losses here.

I've thought about whether it is fair for Mr R to share responsibility for that loss, and I think it is. While I have every sympathy with him, I do think some of his actions contributed to the loss he experienced. I think there were signs that this arrangement was a scam, and I don't think a reasonable person would have acted in the way he did. I don't think a reasonable person would have engaged in an investment opportunity without more extensive investigation into that opportunity. This was a considerable investment, and research would have shown at the time that the Financial Conduct Authority (FCA) had issued a warning about the company Mr R was investing through. There were also negative reviews online that would've been enough to make a reasonable person doubt this was a legitimate investment opportunity. While Mr R has explained he was informed that his partner's friend had received a good return on a similar investment, Mr R took the friend's word for that and I think, given the extent of the investment he was preparing to make, it would have been prudent to check those returns were genuine. He has also told this service that he did some online research and didn't find anything concerning. But, for the reasons I've explained above I don't think he conducted a reasonable level of research into the scammer. So, I can't say Mr R acted reasonably here.

Overall, I think Intelligent Finance's offer to share the loss evenly adding 8% simple interest to the refund and to also refund the transaction fees, is a reasonable one.

I've thought about whether Intelligent Finance did enough to try to recover the funds, they've not explained to us whether they tried to do that. I would have expected Intelligent Finance to have tried to recover the funds promptly when they were told about the scam. Mr R made his last payment on 18 January 2019, but he didn't tell Intelligent Finance about the scam until it was uncovered in February 2019. In our experience, it's unlikely funds remained in the receiving account a month after the last payment was made. Scammers very typically move money very quickly out of a receiving account. And because the payments were international, I don't think it's likely the payments would've been recoverable when this issue was raised with Intelligent Finance. So, I don't think the delay likely made a difference here.

Intelligent Finance haven't offered to pay Mr R any compensation. The losses Mr R incurred were as a result of a scam and it wouldn't be fair to hold Intelligent Finance accountable for the actions of the scammer here. Mr R reported the scam in February 2019, and he didn't get a final response from Intelligent Finance until September 2019. The FCA rules require businesses, such as Intelligent Finance, to respond to complaints within eight weeks so there was some delay here. But I also note that Intelligent Finance were prepared to amend their stance and to offer what I've explained is a reasonable resolution to this complaint. Mr R has also said he should be considered vulnerable under the the Contingent Reimbursement Model (CRM code). But the CRM code isn't relevant to these payments as they were made before the code came into place.

Overall, taking everything into account, I'm not persuaded that any compensation is merited here.

My final decision

For the reasons I've given above I uphold this complaint in part and tell Bank of Scotland plc, trading as Intelligent Finance, to:

- Refund 50% of the disputed payments including the fees and add 8% simple interest per year from the date of the payments to the date of settlement.

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

reject my decision before 21 August 2025.

Phillip McMahon
Ombudsman