

The complaint

Mrs S complains that Bank of Scotland plc, trading as Halifax, won't refund the money she lost when she was the victim of what she feels was a scam.

What happened

In mid-2020, Mrs S says her now ex-partner told her about an opportunity to invest with a local businessman. She understood the businessman would use her funds to help his business, and that she would receive monthly returns on her investment. And, after deciding to invest, Mrs S made a payment of £20,206.83 from her Halifax account to bank details she was given for the businessman.

Unfortunately, Mrs S didn't receive the monthly returns she was told she would. And despite chasing him on a number of occasions, she didn't receive her money back from the businessman. So Mrs S felt she had been the victim of a scam and reported the payment she had made to Halifax.

Halifax investigated but felt this was a civil dispute between Mrs S and the businessman, rather than a scam. So it didn't agree to refund the payment she had made. Mrs S wasn't satisfied with Halifax's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think the available evidence suggested the businessman had intended to scam Mrs S, so didn't think Halifax should have to refund the payment she had complained about. Mrs S disagreed with our investigator, so the complaint has been passed to me.

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.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

At the time of the payments, Halifax was a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This required firms to reimburse customers who had been the victim of certain types of scams, in all but a limited number of circumstances. But customers were only covered by the code where they had been the victim of a scam – as defined in the code.

The relevant definition of a scam from the CRM code is that the customer transferred funds to another person for what they believed were legitimate purposes but were in fact fraudulent.

The CRM code also says it doesn't apply to private civil disputes, such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier.

So in order to determine whether Mrs S has been the victim of a scam as defined in the CRM code I need to consider whether the purpose she intended for the payment was legitimate, whether the purposes she and the businessman intended were broadly aligned and then, if they weren't, whether this was the result of dishonest deception on the part of the businessman.

But I'm not satisfied the evidence I've seen shows that the businessman intended a different purpose for the payment than Mrs S, or that Mrs S' and the businessman's purposes for the payment weren't broadly aligned.

I've thought very carefully about this and I think it's a finely balanced matter in this case. But where the evidence available is unclear or inconclusive, I must make my decision on what I think is likely to have happened, based on the evidence I do have.

I appreciate that Mrs S didn't receive the monthly payments she understood she would and that she hasn't received the amount of her initial investment back. But investments can fail or not produce the expected returns for a number of reasons, that don't necessarily mean they were being operated as a scam. So I don't think this, by itself, is sufficient to say the businessman was operating a scam.

Mrs S has said she was first told about the investment opportunity by her then partner, who worked for the businessman at the time. She's also said she had met the businessman a number of times before the investment took place, that her cousin also worked for the businessman, and that her then best-friend was the businessman's girlfriend at the time. But I wouldn't expect a scammer to have these kinds of pre-existing personal connections to a victim.

The bank the payment was made to has told us it hasn't received any other scam reports against the businessman's account. But scammers usually target a number of people at once, in order to make as much money as possible before the scam is uncovered. So I'd expect to see other scam reports to the same account around the same time if the businessman had been operating a scam.

I've also seen evidence relating to the account the payment was made to, and while I can't share any details of this evidence, I think it shows the account appears to have been run at the time as I would expect a legitimate business' account to have been run and doesn't suggest it was being used to operate a scam.

I also haven't seen any clear evidence which shows that the businessman didn't use the money Mrs S sent him in the way she understood he would, rather than that the proposed investment failed or didn't provide the expected returns. And while Mrs S has mentioned that there is an ongoing police investigation, I haven't been provided with evidence of any investigation by an external organisation which concluded that the businessman was operating a scam in relation to the payment she has complained about.

Mrs S has said that she never received paperwork relating to the investment the businessman told her she would be sent, and raised a number of other concerns about the behaviour of the businessman, her now ex-partner and her then-best friend. But while I appreciate this may suggest the businessman wasn't acting as I might expect a professional businessman to do, and that she might have other grievances with other people, acting

unprofessionally is not the same as operating a scam so I don't think these things go far enough to suggest the businessman intended to scam her at the time the payment was made.

So I'm not persuaded that the available evidence is sufficient to safely conclude that the purpose the businessman intended for this payment was different than the purpose Mrs S intended. And so I don't think the circumstances here meet the definition of a scam from the CRM code, or that Halifax has acted unreasonably in not agreeing to refund the money Mrs S lost from this payment as a result.

It's possible that material new evidence may become available at a future date, which suggests that the businessman did take the payment using dishonest deception. If that happens, Mrs S can ask Halifax to reconsider her claim for this payment under the CRM code and, if not satisfied with its response, bring a new complaint to our service.

Mrs S has argued that Halifax should have done to warn her about the possibility of scams when she tried to make this payment. But, as I don't think the evidence suggests she was the victim of a scam here, I don't think anything I would reasonably have expected Halifax to have done when she made this payment would have uncovered any significant concerns or stopped her from making the payment. And so I don't think it would be fair to require Halifax to refund the payment on this basis either.

Mrs S has also mentioned that she was going through difficult personal circumstances at the time and suffers from a number of medical conditions which affected her ability to judge the risks of making the investment. And my intention isn't to diminish the severity of her conditions and I don't underestimate the impact her circumstances had on her. But I don't think her circumstances at the time were such that I would have expected Halifax to take significantly different action than that I explained above.

I sympathise with the position Mrs S has found herself in and I recognise that she has lost a significant amount of money and may find it difficult to pursue the businessman directly. I'm also in no way saying she did anything wrong or that she doesn't have a legitimate grievance against the businessman. But I can only look at Halifax's responsibilities here and, for the reasons I've explained above, I don't think it would be fair to hold Halifax responsible for the money she lost.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 6 February 2026.

Alan Millward
Ombudsman