

The complaint

Miss P complains that Bank of Scotland plc trading as Halifax ('Halifax') won't refund the money she lost after falling victim to a scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my decision.

In summary, Miss P made an investment with a company I'll refer to as H. Miss P says the investment was recommended to her by her sister. I'll refer to her sister as S.

Miss P made three payments as part of the scam - £5,000 on 23 February 2021, £15,000 on 24 June 2021 and £20,000 on 25 June 2021.

When Miss P tried to withdraw her investment, she was given excuses. She received £5,900 back in December 2021, but no further funds were returned.

Miss P raised a fraud claim with Halifax asking that they refund her. Halifax initially declined to refund Miss P saying she had a civil dispute with H. After a further review, they changed their position and agreed that it was a scam. Halifax said only the third payment was unusual and out of character, so they refunded 50% of that payment. Halifax also paid £40 compensation for not reaching the right answer the first time.

Miss P wasn't happy with Halifax's response, so she brought a complaint to our service.

An investigator looked into her complaint and recommended Halifax refund 50% of all the payments Miss P made under the Contingent Reimbursement Model Code (CRM Code), but said Halifax could reduce the refund by the £5,900 that was returned to Miss P. The investigator wasn't satisfied that Miss P had a reasonable basis for believing the investment was genuine, but said Halifax failed to provide effective warnings when the payments were made. The investigator said the £40 compensation was fair.

Halifax agreed with the investigator's recommendation. Miss P disagreed and asked for an ombudsman to review her case. Miss P says the circumstances under which she made her investment are the same as when her sister invested. As her sister has been fully refunded, Miss P believes she should be fully refunded too.

Having reviewed the case, I reached the same answer as the investigator but with a slightly different redress recommendation. So, I issued a provisional decision explaining why and giving both parties a chance to respond before a final decision was issued.

My provisional decision

In my provisional decision "What I've provisionally decided – and why" section I said:

Having reviewed all of the evidence, I've reached the same answer as the investigator and for the same reasons. However, I'm recommending a slightly different redress.

Under the CRM Code, Halifax should refund victims of APP scams unless an exception to reimbursement applies. In this case, Halifax say Miss P made the payments without having a reasonable basis for believing the investment was genuine. I agree that Halifax can rely on this exception to reimbursement for the following reasons:

- Miss P says she made the investment based on the recommendation from S who had previously invested with H. However, in the final response letter that S provided from her bank, it says S became aware in 2020 that H had dissolved. After applying pressure to the directors, she received back £10,000 of her investment, but not the remaining £60,000 she had invested. So, prior to Miss P investing in February 2021, S knew that H wasn't repaying investors.
- Miss P didn't complete any independent checks on H before making her payments.

So, I'm not satisfied that Miss P had a reasonable basis for believing the investment was genuine when she made her payments in February 2021.

Where an exception to reimbursement applies, a bank can still be partially liable if they haven't met the standards set for them under the CRM Code. In this case, I'm satisfied that all of the payments Miss P made were unusual and out of character and Halifax should've provided an effective warning. Halifax says it can't evidence what warnings were shown when Miss P made her payments, so I can't fairly say they provided effective warnings. This means they're partially liable under the CRM Code and should refund 50% of all the payments Miss P made.

Miss P says she should be fully refunded as her circumstances mirror those of S', and S received a full refund. However, I have to reach an answer based on the individual circumstances of Miss P's case. Having done so, I'm not persuaded she is entitled to a full refund.

Calculating the redress

I can also see that Miss P received money back, which she understood to have been 'profit/return' from her investment. Given Miss P was the victim of a scam and her 'investment' wasn't genuine, I don't think this money should be attributed to any specific payments. Instead, I think this money should be deducted from the amount lost by apportioning it proportionately across all of the payments Miss P made to the scam. This ensures that this credit is fairly distributed.

To work this out, Halifax should take into account all of the payments Miss P made to the scam.

In this case, the 'profit/returns' received equals £5,900 and the total amount paid to the scam equals £40,000. Halifax should divide the 'profits/returns' by the total amount paid to the scam. This gives the percentage of the loss that was received in 'profits/returns'. Deducting that same percentage from the value of each payment gives the amount that should be reimbursed for each payment.

Here the 'profit/returns' amount to 14.75% of the total paid to the scam. It follows that the outstanding loss from each payment should be reduced by the same percentage. That means Halifax should reimburse 85.25% of each payment.

Please note that, for ease of reading, I've rounded the relevant percentages down to two decimal places, but Halifax should perform the calculation I've set out above to arrive at a more precise figure, as I have done to arrive at the figure below.

As I've explained above, I think the reimbursement should be reduced by 50% under the CRM Code, as an exception to reimbursement applies.

Halifax has already refunded 50% of payment three and not made a deduction based on the returns, so they've refunded more than I would've recommended for that payment.

I calculate the refund on payment one to be £2,131.25 and the refund on payment two to be £6,393.75. This means a total refund of £8,525.00.

As Miss P has been without the use of these funds, she is also entitled to be paid 8% simple interest per year, calculated from the date Halifax declined her claim under the CRM Code to the date of settlement.

The compensation Halifax has paid

Halifax say they reached the wrong answer when they first assessed Miss P's fraud claim. So, they paid her £40 compensation.

Miss P has also raised concerns about the length of time it took for her to receive an answer on her claim, and being refunded without an explanation of how it was calculated. I can see that Halifax wrote to Miss P to explain the refund they were making and how it was calculated. So, I can't fairly say that Halifax has done anything wrong.

However, there does seem to have been a delay between Miss P raising her fraud claim and her receiving Halifax's final response. Also, Halifax have admitted they provided the wrong answer initially, which impacted Miss P who was already distressed at having fallen victim to a scam. Based on the circumstances I'm satisfied that it would be fairer for Halifax to pay £100 compensation. However, I'm conscious that Halifax have refunded over £1,000 more on payment three than I would've recommended. On that basis, I'm not satisfied that Halifax should make a further payment in relation to compensation.

My provisional decision was that I intended to uphold the complaint and ask Halifax to refund £8,525 and pay simple interest of 8% per year, calculated from the date Halifax declined Miss P's claim under the CRM Code until the date of settlement.

Responses to my provisional decision

Halifax responded to say they accepted my provisional decision.

Miss P responded disagreeing and raising the following points:

- There are two separate companies involved in this complaint. H1, which is the company Miss P's sister invested with in January 2020 and which was dissolved in January 2021. And H, which is the company Miss P invested with in February 2021. Miss P says "this was explained to us as a business restructuring". H continued to trade as a registered active company until October 2022, which Miss P says made it appear to be a legitimate business.
- Miss P did not ignore this change but took comfort from the fact that other family members had already received money back from the same individual and business network.

- H sent Miss P formal account statements which appeared professional and legitimate in every respect.
- Miss P did not act carelessly or without thought, she relied on repayments to family members, plausible explanations about restructuring and professionally presented documentation.

Miss P also raised a concern that an earlier offer was made then withdrawn, which hasn't been explained.

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've carefully considered the points that Miss P has raised in response to the provisional decision, but they don't change the answer I reached or the redress I recommended.

Miss P says there was a restructuring of H1 and a plausible explanation was given as to why this was happening. However, that doesn't negate that her sister had suffered difficulties in recovering her investment with H1. Setting up a new company in the name of H, which was registered on Companies House, doesn't address the financial issues that were experienced in relation to H1 and should've made Miss P concerned that the same issues could happen to H.

It's also worth explaining that in considering whether Miss P had a reasonable basis of belief, I have to look at what information was available to her at the time she made her payment – not at a later date. So, receiving formal statements which appeared professional and legitimate after she had invested, doesn't build into her basis of belief when the payment was made.

I realise that the redress I'm recommending is less than the investigator recommended in their view. When the case is passed to an ombudsman, we review the evidence in order to reach an answer. This may mean the outcome changes or, as is the case here, the redress may change. The investigator didn't apportion the returns Miss P made against all of the payments in line with our approach, which means they recommended a higher refund. I'm sorry if Miss P is disappointed with the lower refund, but I'm satisfied that the redress I'm recommending is fair based on the circumstances of this case.

I'm really sorry that Miss P had suffered a financial loss as a result of this investment. But, based on the evidence, I'm still satisfied that it's fair for Halifax to refund 50% of her loss with the returns she received apportioned and reduced from the refund due. The full explanation of how I've calculated this is included above and was set out in my provisional decision.

Putting things right

To put things right I require Bank of Scotland plc trading as Halifax to:

- Refund £8,525.00 to Miss P, and
- Pay simple interest of 8% per year on the refund, calculated from the date Halifax declined her claim under the CRM Code until the date of settlement.*

*If Halifax considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss P how much it's taken off. It should also give Miss P a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

My final decision is that I uphold this complaint against Bank of Scotland plc trading as Halifax and require them to compensate Miss P as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 17 March 2026.

Lisa Lowe
Ombudsman