

The complaint

Mr F complains that Bank of Scotland plc hasn't refunded him after he fell victim to a scam.

What happened

The background to this complaint is well known to both parties and so I'll summarise the key facts here.

In October 2019 Mr F was interested in exploring new business ventures. He found some opportunities he liked the sound of whilst searching online, using a website specifically for the purpose of buying businesses and franchises.

Mr F contacted a seller from the website and went through the details of several opportunities. He decided to go ahead and buy into three franchises and made payment to a limited company I'll call P. His understanding was that three websites would be set up for him and that these would generate revenue through advertising.

Mr F hadn't received any revenue after a few months and so contacted P to find out what was happening. It explained that covid-19 had caused issues in launching the websites and generating earnings. Mr F continued to wait.

As no further contact was received – and no earnings were paid – Mr F pressed P for answers again. But he received little to no response despite numerous emails and chasers. Mr F was eventually told he couldn't have a refund but that P would try to resell his websites. But no sale and so funds materialised. So Mr F reported to Bank of Scotland that he'd been scammed.

Bank of Scotland looked at what had happened but said it couldn't help. It felt that Mr F had a civil dispute with P for not delivering the goods and services promised, rather than it being a case of him having been scammed.

Mr F was unhappy with the bank's response and brought his complaint to our service. One of our investigators considered all the evidence and felt Bank of Scotland had reached a fair and reasonable outcome. She said that P appeared to have been operating as a legitimate business at the time and there was insufficient evidence to suggest it had set out to scam Mr F.

The complaint has now been passed to me as Mr F didn't agree with the investigator's findings.

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 F further, but I'm reaching the same outcome as our investigator and for broadly the same reasons. I'm satisfied this is a case of a civil dispute between Mr F and P.

As the payments were properly authorised from his account, in line with the terms and conditions as well as the Payment Service Regulations 2017, there are no grounds on which I can say Bank of Scotland ought to refund him.

Mr F has referred to the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. And it's true the Code does offer protection to consumers that have fallen victim to a scam. But as I've found this wasn't a scam, the Code doesn't apply. And that includes any requirement for Halifax to have given Mr F scam warnings before he made his payments.

I don't doubt that Mr F hasn't received what he paid for. And it seems quite clear he's been mistreated and let down by P. But that's not the same as him having been scammed by it.

I've seen some of the account statements for P, demonstrating payments to be expected of running a genuine business. And I've considered that it was legitimately registered with Companies House. It's also evident from online searches it had employees, albeit some of whom appear to have had genuine grievances against P. But a company being poorly run, perhaps even engaging in sharp practice, doesn't establish it as an entity created to scam people.

I know Mr F has carried out a lot of research into the directors that sit behind P. He's found numerous limited companies that have been set up and shut down. Mr F believes this demonstrates that those directors are regularly engaged in defrauding people. But I'm not persuaded there's sufficient evidence to that effect. And it doesn't establish that Mr F was being deliberately scammed at the time he made his payments to P.

I can't say why P didn't deliver what it was supposed to to Mr F. It's possible the explanation he received from it, the impact of covid-19, is true. But overall, I'm not persuaded a scam has taken place.

My final decision

I don't uphold this complaint against Bank of Scotland plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 23 November 2023.

Ben Murray
Ombudsman