

The complaint

Mr N is a sole trader, trading as P. He complains that Starling Bank Limited ('Starling') won't refund the money he lost after falling victim to a scam.

What happened

Mr N says that in 2020 he heard about an investment opportunity from a friend. He was introduced to a person who I'll refer to as G. Mr N says G was known in the community and a relation of his had started investing with her.

What Mr N told our service

- Mr N spoke with G for about a month before making his investment.
- He spoke to G about her previous investment successes and was shown photos of the properties she had invested in.
- G didn't have any formal brochures but explained how it would work. G said Mr N would get better returns as they didn't have to deal with paperwork. Mr N says other people had invested without any paperwork either.
- G would buy supported housing properties from the government at an 80% discount, renovate them, rent them out and then sell them back to the government for a profit.
- Mr N initially invested and started getting the return he expected of £600 per month (from a £25,000 investment), which was supposed to run for a 12 month period.
- Shortly after his initial investment G approached Mr N about another property and Mr N invested again.
- G told Mr N about other professionals involved and often asked him to pay money directly to them.
- Mr N continued to receive returns for seven to eight months and got other friends and family to invest.
- Mr N made some of his investments in cash and got cash returns on those investments. Mr N says that he invested around £700,000 in total.
- In March 2021, the returns stopped coming in and when Mr N asked about it, he was given a number of different excuses.
- In December 2021 G disappeared but reappeared again in January 2022.

Mr N separately said that friends and family who had invested were raising their own fraud claims with their banks and that he was paying back the money he'd borrowed to invest.

In November 2021, Mr N raised a fraud claim with Starling. Starling looked into Mr N's fraud claim but declined to refund him. Starling said they considered the matter a civil dispute between Mr N and G.

Mr N wasn't happy with Starling's response, so he brought a complaint to our service.

An investigator looked into Mr N's complaint and didn't uphold it. The investigator highlighted the lack of information that Mr N had about the investment before investing, saying Mr N didn't have a reasonable basis for believing the investment was genuine. The investigator

also explained that they thought it was unlikely that intervention by Starling would've prevented Mr N from continuing to make payments, based on the returns he was getting.

Mr N disagreed with the investigator's opinion, raising the following points:

- They are entitled to a refund under the Lending Standards Board's Contingent Reimbursement Model Code (the CRM Code).
- Our service hasn't taken an empathetic approach in considering whether Mr N did sufficient checks or in saying he didn't have a reasonable basis for believing the investment was genuine.
- Mr N provided a list of reasons why he did reasonably believe the investment was genuine.

As the case couldn't be resolved informally, it was passed to me to review.

Having reviewed the case, I intended to reach the same outcome as the investigator but for a different reason. So, I wanted to explain my reasoning and give all parties a chance to provide any further evidence before I issue a final decision. I issued my provisional decision on 27 February 2024.

My provisional decision

In my provisional decision I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence.

Based on the evidence we have I'm not satisfied I can safely conclude that Mr N was the victim of a scam as there is no evidence to support the claim he is making. I'll explain why.

Mr N says that G was working with a company in relation to purchasing and renovating these properties, however Mr N doesn't have a name for the company or any information about them. Mr N says properties were being purchased from the government, however there is no paperwork to evidence these transactions or any details for the properties involved. There is also no evidence of any communication between Mr N and G which sets out the discussions they had, any information Mr N was given, or the basis of a scam as Mr N has set out. Mr N says properties were being purchased, renovated, rented out and then sold, but there is no paperwork, addresses, details etc. At this stage, all we have is Mr N's testimony that he made the payments as part of a scam, with no evidence to support this.

Also, there is some inconsistency in Mr N's testimony in relation to the information he was given at the time he made the payments, how he funded the payments and what returns he has received. Especially as Mr N says that payments stopped coming in in March 2021, but he continued making payments to G or to payee details given by G past this date – with over £50,000 sent in May 2021.

So, based on the evidence I've seen, I'm not satisfied that I can safely conclude that Mr N was the victim of a scam.

However, it's important to note, that even if Mr N is able to evidence that a scam took place, it's unlikely I could fairly ask Starling to refund him. I say this because I can't see that Mr N has suffered a financial loss.

Mr N says that he lost over £135,000 from his Starling account in payments he made to G, or accounts G directed him to pay. However, having reviewed Mr N's Starling bank statement, I can see that when he was making these payments, he received credits into his account in excess of £185,000 from named individual payers. Even if I take into account payments that he later made out to the same named individuals (which may have been him repaying some of the funds he received), this only accounts for £178,000 in total – which suggests that Mr N has financially benefited by at least £7,000 and hasn't suffered a financial loss.

Also, while Mr N says he borrowed money from friends and family which he has paid back, there aren't sufficient payments out of his Starling account to support this position. And, I'm not satisfied that I can safely rely on Mr N's testimony that he repaid all of the parties that paid money to him without evidence to support that.

I'm also concerned that Mr N says friends and family that invested have raised their own fraud claims with their banks, in which case Mr N wouldn't be entitled to any refund in relation to those payments.

Based on what I've seen, I'm not satisfied that Mr N has sufficiently evidenced that he was the victim of a scam, or that he has experienced a loss as it appears to have been other people's money that he sent to the scammer. Therefore, I can't fairly ask Starling to refund him any money as he wouldn't be entitled to the funds.

My provisional decision was that I didn't intend to uphold this complaint.

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 response to my provisional decision, Starling said they had nothing new to add.

Mr N responded, saying he feels that rather than there being inconsistencies in his testimony, there is simply a lack of information or explanation in relation to some points. However, he accepts that he hasn't personally suffered a loss as a result of the payments he made. And, Mr N says the individuals who have suffered the loss will raise fraud claims with their banks.

I'm sorry if Mr N feels his actions are being viewed suspiciously or as unreliable. He's emphasised that he feels personal responsibility for the loss experienced by the individuals who made payments to him based on what they considered to be a genuine investment opportunity.

In response to the provisional decision Mr N provided a single screen shot taken from a chain of messages, without providing the entire chain of messages. He also provided some call recordings which he says were conversations with G.

Unfortunately, there has been very limited evidence provided to support the testimony Mr N has given, even taking into account the additional information provided in response to the provisional decision. This makes it very difficult to understand exactly what Mr N was told by

G, what agreements were made and what he was told at the point he made the payments, which span a 12 month period.

Having reconsidered all of the information and evidence that we have, I'm still not satisfied that I can safely conclude that Mr N was the victim of a scam. More importantly, Mr N hasn't evidenced that he has suffered a financial loss as a result of the payments he's made, as all of them were funded by credits to his account from other individuals. On that basis, I can't fairly ask Starling to refund Mr N for any of the payments he's made.

My final decision

My final decision is that I don't uphold this complaint against Starling Bank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask P to accept or reject my decision before 8 May 2024.

Lisa Lowe
Ombudsman