

The complaint

Mr H is unhappy that Lloyds has decided not to refund him after he was the victim of an investment scam.

What happened

In October 2020, Mr H invested in an unregulated company ("K"). It claimed to be involved in providing short-term bridging loans to UK property developers. Mr H believed he was purchasing a £6,000 two-year fixed rate bond paying 8.95% P.A.

Mr H says he looked into K and its website, he checked the FCA register and public reviews of K.

He paid that amount to a regulated entity ("N") who passed it on to K, though Mr H says he has had no dealings with N and was simply directed to make the payment to that account. Mr H says he was told he would be paid quarterly.

Mr H says he was supposed to receive quarterly interest payments and these weren't received. So, he complained to K and eventually received a credit of £101.13 in January 2021 and was told the terms of the returns had changed and he would be paid on maturity of the bond instead.

A winding up order was made against K in December 2022. With the Insolvency service issuing letters to creditors at that time, saying there had been no evidence of any bridging loans made by the company to date, but the Official Receivers' investigation was on-going. Mr H contacted the Financial Services Compensation scheme (FSCS) but was directed to make a claim with his bank under the Contingent Reimbursement Model (CRM) Code.

Mr H raised a scam claim with Lloyds. It said the payment wasn't made to a fraudsters account, both K and N were legitimate firms who went into administration. And for that reason, it wouldn't be reimbursing Mr H under the CRM Code. It went on to say the FSCS are still willing to look into the matter after they've reviewed findings from our service. It also said Mr K made a regular faster payment from his account. It said the payment wasn't unusual and it didn't flag and Lloyds didn't intervene when it was made. But it also went to say even if it had stopped the payment K and N were trading and operating normally and so there would not have been any reason Mr H would not have made the payment.

Mr H referred the matter to our service and one of our investigators upheld his complaint. They were satisfied that Mr H had fallen victim to a scam and no exception to reimbursement under the CRM Code applied. Mr H accepted the investigators findings. Lloyds asked for repeated extensions seeking an update from the Police before responding.

But in summary Lloyds didn't agree, in summary it said:

- it believed this was a civil dispute because K was a genuine business evidenced by its entries on Companies House.

- K is in liquidation and investigations by liquidators and the Official Receiver are on-going and it has not been confirmed that K did not use investor funds broadly in line with what Mr H (and other investors) understood to be the purpose of the payments.
- Although action fraud referred the matter to the Police there is no criminal investigation into the actions of K or its directors, the insolvency picked up the issue of asset freezing etc. And therefore, there is no evidence to suggest K is being investigated for fraud.
- There is no evidence to suggest K misled investors about the high-risk nature of the investments being offered.
- It said there wasn't sufficient evidence that K intended to defraud Mr H.
- Some investments are high-risk that result in disappointing returns or losses and this investment does not meet the high threshold or burden of proof of fraud.
- It found reviews where customers say they took out bridging finance with K and although it appreciates some reviews can be faked, in this instance the reviews are shown to be verified.,
- It believes any decision should be deferred until the Official Receivers have completed their investigations.
- K operated from 2015 but all complaints related to investments made from 2020 onwards.
- The failed co-operation by the directors in the insolvency process is not evidence of an intention to defraud.
- The FCA has not issued any warnings about K.
- The investment literature illustrated the high-risk nature of the investment and it being aimed at "High Net Worth individuals, Sophisticated or Self-Certified Sophisticated Investors"
- Keeping in mind the significant financial turmoil experienced since 2020, the increased costs in materials and borrowing, it's not surprising there has been an increase in failed investments.

Lloyds did not agree to refund Mr H.

As no agreement could be reached, the case was passed to me for a final decision.

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.

Lloyds are a signatory of the CRM Code. It requires firms to reimburse victims of APP scams in all but a limited number of circumstances. It does not cover 'private civil disputes'. So, the key point of dispute is whether Mr H fell victim to an APP scam or was involved in a civil dispute. The CRM Code defines an APP scam as:

'a transfer of funds executed across Faster Payments, CHAPS or an internal book transfer, authorised by a Customer in accordance with regulation 67 of the PSRs, where:

a) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or

b) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.'

Mr H wasn't deceived into transferring to a person other than he intended, so I need to decide whether he transferred funds to N (which arrived at K) for what he believed was a legitimate purpose but was in fact fraudulent.

I've considered the submissions of both parties carefully, but I'm satisfied that Mr H fell victim to a scam. In reaching this conclusion, I've put particular weight on the fact that:

- The Insolvency Service has confirmed that after reviewing K's accounts there 'is little evidence of any bridging loans being provided with the investments'; and
- It also stated that K appears to have been operating as a 'Ponzi' scheme.

While I acknowledge that some investigations are ongoing, I find the above statements persuasive evidence that Mr H fell victim to a scam. A 'Ponzi' scheme is fraudulent in nature and such a description generally suggests there was never any intention to use the funds in the way promised.

Mr H's experience of K is not inconsistent with it operating as The Insolvency Service has stated. He was due to receive returns but was then told that interest would be payable on the maturity of the bond and subsequently wasn't able to contact K.

Lloyds points to a reviews website which it says contains 'verified buyer' reviews that claim K did in fact provide bridging loans. Putting aside that The Insolvency Service is likely in a far better position to assess whether any such loans were provided, there are also a number of 'verified buyer' reviews on that website which are clearly advertising recovery scams. It seems extremely unlikely that those reviews have been through a stringent vetting process. I therefore put little weight on the veracity of the reviews.

It is not the role of the FCA to issue warnings about every limited company that might be operating fraudulently. It does so where it has reason to believe that a company is providing financial services requiring authorisation without being authorised to do so. I understand that K would not be required to be authorised for the activities it was undertaking.

While I acknowledge that K does not appear to be the subject of an ongoing police investigation, the police have limited resources and must take into account a range of factors when deciding to pursue a criminal investigation. I do not find this to be determinative. I also put little weight on the suggestion that a fraudulent company wouldn't claim to be high-risk. I don't think it's unreasonable to suggest that the nature of this fraud – that is long-running and having the outward appearance of being genuine makes it necessary to mimic the actions of a genuine company – including advising investors about risk.

The fact that K was incorporated as a limited company is not, in my view, a persuasive reason to think it was operating legitimately. Setting up a limited company is a straightforward and inexpensive process. It's also worth pointing out that K's stated 'nature of business' on Companies House isn't providing bridging loans.

I understand Lloyds' broader point – that we should simply wait until any investigation is concluded. On the face of it, that might not sound unreasonable. But it's been a significant amount of time since concerns about K came to light and there appears to be no clear timeline by which the matter might be resolved.

While I recognise the bar for demonstrating fraud is a fairly high one, I do not think it is necessary or fair to wait for an indeterminate point in the future when some degree of

certainty may or may not be established as to the legitimacy of K.

Instead, I think the statements by The Insolvency Service are persuasive evidence and I wouldn't expect these to be made flippantly or without solid evidential grounds. On balance, I find those statements sufficient to reach the finding that K was operating as a scam. Lloyds has not challenged our investigator's view that, should it be decided that Mr H fell victim to a scam, he should be reimbursed under the CRM Code. I'm satisfied no exception to reimbursement applies. Lloyds cannot evidence any warning it might have provided and therefore cannot show that any warning was 'Effective' and ignored by Mr H.

The fact that there continues to be debate about the legitimacy of the scheme years after the payment strongly suggests Mr H held a reasonable belief that the scheme was legitimate at the point he made the payment. And there's no other evidence I've seen which indicates it wasn't reasonable for him to hold this belief.

That means I think that Mr H should be reimbursed under the provisions of the CRM Code. Lloyds should reimburse the full amount of the payment £6,000 minus the credit of £101.13.

Interest

I've decided that interest should be payable from the date that Lloyds declined Mr H's claim under the CRM Code. The information which I've largely relied on to uphold this complaint was obtained by our service significantly prior to Mr H raising his claim and I don't think it's unreasonable to suggest that Lloyds could have obtained this information too.

Putting things right

I uphold this complaint about Lloyds Bank PLC and instruct it to pay Mr H:

- The amount of the disputed payment - £6,000, minus the credit he received of £101.13.
- Pay 8% simple interest per year on that amount from the date it declined Mr H's complaint under the CRM Code to the date of settlement¹

My final decision

I uphold Mr H's complaint against Lloyds Bank Plc and direct it to settle the complaint as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 7 May 2025.

Sophia Smith
Ombudsman

¹ If Lloyds considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr H how much it's taken off. It should also give Mr H a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.