

The complaint

Mr N complains that Lloyds Bank PLC won't refund the money he lost when he was the victim of what he feels was a scam.

What happened

Some time before July 2019, Mr N saw an advert online for a property crowdfunding company. The company offered investors the opportunity to pool their collective capital to fund property development projects. And after looking into the investments offered, Mr N then made a number of payments from his Lloyds account to invest with the company.

I've set out the payments Mr N made from his Lloyds account below:

Date	Amount
29 July 2019	£10,000
29 July 2019	£13,000
5 August 2019	£1,000
4 September 2019	£1,900
4 September 2019	£1,000
27 February 2020	£2,000
26 June 2020	£1,100

Unfortunately, Mr N didn't receive the returns he was told he would from his investments and the company went into administration in February 2021. Mr N then reported the payments he had made to Lloyds as a scam and asked it to refund the money he had lost.

Lloyds investigated but said it felt the company was a genuine business who had now ceased trading. So it felt this was a civil dispute, rather than a scam, and didn't agree to refund the payments Mr N had made. Mr N wasn't satisfied with Lloyds' response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think the available evidence demonstrated that the company had set out to deliberately defraud investors. So they didn't think Lloyds should have to refund the money Mr N had lost. Mr N 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.

Lloyds is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This requires firms to reimburse customers who have been the victim of certain types of scams, in all but a limited number of circumstances. But customers are only covered by the code where they have 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 Mr N has been the victim of a scam as defined in the CRM code I need to consider whether the purpose he intended for the payments was legitimate, whether the purposes he and the property crowdfunding company intended were broadly aligned and then, if they weren't, whether this was the result of dishonest deception on the part of the company.

From what I've seen and what he's told us, I'm satisfied Mr N made the payments here with the intention of investing with the property crowdfunding company. He thought his funds would be used to fund projects the company was carrying out, and that he would receive returns on his investment. And I haven't seen anything to suggest that Mr N didn't think this was legitimate.

But I'm not satisfied the evidence I've seen shows that the property crowdfunding company intended a different purpose for the payments, or that Mr N's and the company's purposes for the payments weren't broadly aligned.

From what I've seen, it appears the property crowdfunding company did put investors' money towards a number of property development projects across the UK. A report from the administrators of the company stated that there were a total of 15 development projects on the company's books at the time of the administration, eight of which had been substantially completed. And I wouldn't expect a company that always intended to scam investors, to complete so much work on so many projects that would have involved a large amount of investment and management. So I think the substantial completion of these projects strongly suggests the property crowdfunding company was attempting to operate as a legitimate business.

The company was authorised by the relevant regulator and registered on the governments register of limited companies, where it filed annual accounts for a number of years before it entered administration.

I've also not seen anything from the administrators of the property crowdfunding company which suggests it was operating a scam. In fact, the administrator's report suggests the failure of the company followed attempts to address failures to comply with new regulatory rules and an inability to obtain external funding. And I haven't been provided with evidence of any investigation by an external organisation which concludes that the company was operating a scam.

Mr N says he was told the investments would be secured, but that this security either does not exist or has not been enforced following the company's liquidation. But I haven't seen evidence of this security in any of the documents or promotional material from the company he has sent us.

Mr N has also said the director of the property crowdfunding company was found to have illegally transferred himself a large amount of money from the company. But while this may suggest governance failures or poor business practices on the part of the company, I don't think it goes far enough to show that it intended to operate a scam from the outset.

So I'm not persuaded that the available evidence is sufficient to safely conclude that the purpose the property crowdfunding company intended for these payments was different than the purpose Mr N intended. And so I don't think the circumstances here meet the definition of a scam, or that Lloyds has acted unreasonably in not agreeing to refund the money Mr N lost from these payments as a result.

It's possible that material new evidence may become available at a future date, which suggests that the property crowdfunding company did take the payments using dishonest deception. If that happens, Mr N can ask Lloyds to reconsider his claim for these payments and, if not satisfied with its response, bring a new complaint to our service.

I'm sorry to disappoint Mr N, as I know he has lost a significant amount of money. But I'm not satisfied that I can fairly ask Lloyds to refund him based on the evidence that is currently available.

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 Mr N to accept or reject my decision before 4 April 2025.

Alan Millward
Ombudsman