

The complaint

K complains that Cater Allen Limited won't refund a payment it says it made and lost to a scam.

What happened

The background to this complaint is well-known to both parties, so I won't repeat it in detail here. But in summary and based on the submissions of both parties, I understand it to be as follows.

K complains that on 13 December 2017 it sent a payment of £100,025.00 from its account held with Cater Allen Ltd to what it believed was a legitimate investment.

K says after receiving an unsolicited call, it transferred money for access to a financial instrument transaction platform. K says despite requests to the company it sent the money to, it's been unable to withdraw or recover any funds. So, K logged a complaint with Cater Allen.

Cater Allen looked into the complaint but didn't uphold it. Cater Allen said it didn't have enough information to investigate the alleged scam, and despite requests to speak to K, they had been declined. So, K brought its complaint to our service.

Our investigator looked into the complaint but didn't uphold it. Our investigator didn't think it had been sufficiently evidenced that K had lost money to a scam.

As K remained unhappy, the complaint's been passed to me to decide.

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 very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

Where the evidence is incomplete, inconclusive, or contradictory, I must make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

In line with the Payment Services Regulations (PSR) 2017, consumers are generally liable for payments they authorise. Cater Allen is expected to process authorised payment

instructions without undue delay. As a bank, it also has long-standing obligations to help protect customers from financial harm from fraud and scams. But those are predicated on there having been a fraud or scam. So, to start, I've considered whether K was a victim of a scam as it's claimed.

Having considered the information K and its representative have sent to support the claim that it was scammed, I'm not satisfied it shows me more than K making a transfer of funds to another company. The only information we have is a statement showing a payment being sent to a third-party and a phone call between K and Cater Allen when the payment was made.

K hasn't sent any evidence of contact with a scammer or someone asking it to transfer money, or most importantly that it suffered a loss after the money was sent.

I understand K has said that the purchase was agreed over the telephone, but I'd also expect some kind of written communication when agreeing to send such a large amount of money to someone from an unsolicited call. K has also said it's been unable to recover any funds, but I've seen no evidence of these attempts.

So based on everything I've seen, on balance, I'm not persuaded or satisfied it's been sufficiently demonstrated that K made this payment to a scam, and it created a loss. This is because of K's lack of evidence to show that it was in contact and convinced by a scammer to send money, or something to show where the money ended up.

So, although I've explained Cater Allen has obligations when its customers are sending payments, these are predicated on there having been a fraud or scam. I know K will be disappointed by this outcome. But for the above reasons, I don't think Cater Allen has acted unfairly by not providing a refund.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask K to accept or reject my decision before 13 May 2025.

Tom Wagstaff
Ombudsman