DRN-5029074

The complaint

Mr N complains that Lloyds Bank PLC failed to protect him at a time he was falling victim to a scam and that it hasn't refunded him since that scam was reported.

What happened

The background to this complaint is well-known to all parties and so I'll only summarise key events here.

Mr N was introduced to an investment opportunity involving a property development company. I'll refer to that company as Company H.

Mr N decided to invest and sent £32,000 from his account with Lloyds to Company H's account in December 2019. He believed the money would be used to fund Company H's property development projects, with returns on the investment to be paid further down the line.

But Company H went into administration in 2022 and without Mr N having received what was promised. As details about Company H's collapse came to the fore, Mr N became of the view he'd been the victim of a scam, and that Company H had never been offering a legitimate investment opportunity.

Mr N raised his concerns with Lloyds and asked that it reimburse his loss. It investigated but declined to do so. It said it believed Mr N had paid a legitimate company for a legitimate purpose and that Company H was a failed business, rather than it being the case that Company H had set out to scam him.

Mr N was unhappy with Lloyds's response and so brought a complaint to our service. One of our investigator's considered it but didn't recommend it be upheld. They found Lloyds had acted fairly and reasonably in concluding Mr N had a civil dispute with Company H and that Lloyds ought not bear responsibility for his loss.

Mr N was unhappy with our investigator's recommendations, still believing he'd been the victim of a scam. And so asked that an ombudsman review the 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.

Mr N has provided this service with some detailed submissions and has referred to numerous sources of evidence in presenting his complaint to us. In reviewing this complaint, I have considered all of this evidence, and the arguments made. I am not, however, responding in an equal level of detail as Mr N. This is not to be discourteous, or to say that what has been sent is irrelevant to his complaint. Instead, my intention is to focus on what I consider to be the points most relevant to the outcome of the complaint.

And so, evidence or information not mentioned or discussed by me specifically in this decision hasn't been ignored. I'm satisfied it's not necessary for me to comment on each individual point or argument made to reach a fair and reasonable outcome.

The rules under which this service operates allow for me to do this, and this approach is reflective of our requirement to resolve complaints as quickly and informally as possible, and as an alternative to the courts.

Having considered all of the available information and evidence, I'm reaching the same outcome as our investigator and for broadly the same reasons.

The starting point at law is that a customer is responsible for any payments made from their account which are properly authorised. And when an authorised payment instruction is received, it's incumbent on the account provider to process it as quickly as possible and with minimal friction. This position is set out in the Payment Service Regulations (2017).

There are, however, taking account of relevant rules, codes, and best practice standards, times when a firm shouldn't take a customer's payment instruction at face-value and ought to establish the wider circumstances behind it.

It's also the case that Lloyds, at the time of the payment, was a signatory to the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. The Code is in place to see the victims of scams reimbursed in most circumstances. But it doesn't apply to all payments made from a customer's account.

Importantly, the payment made must meet the Code's criteria and definition of an APP scam. The payments must have been made to another person for what the customer believed were legitimate purposes, but which were in fact fraudulent.

And the Code confirms that it doesn't apply to payments which are the subject of a private civil dispute, such as where goods and services haven't been provided. The collapse of a legitimate property investment firm, leading to the loss of invested funds for its customers, would be included as the non-delivery of goods and services, meaning payments made to such a company wouldn't be covered by the Code.

I then need to consider whether Company H was a legitimate but failed investment company, or whether there is sufficient evidence to show it was more likely than not operating a scam, and always intended to steal Mr N's money, when he invested. Having done so, I'm not persuaded there is sufficient evidence to show Company H was operating a scam.

It's clear Mr N sent his money to Company H with the intended purpose of it being used in the development of property, with the view to returns on investment being generated. And Mr N was clearly persuaded Company H was a legitimate venture at the time.

It's entirely evident that Company H hasn't delivered what was promised and Mr N has undoubtedly lost out financially as a result. But what I've not seen sufficient evidence of is that the loss was the result of Company H's intention to steal the money from the outset.

Company H was a limited company that had been operating since 2011, and it had been filing accounts broadly as expected up until 2019. It had taken on and completed three separate developments of the type it claimed to be involved with. There were also other projects in development, but which were sold off to other developers as the company fell into financial difficulties. I'm persuaded this evidences an intent to legitimately provide the services sold to investors as they are the actions of a legitimate property development enterprise.

It's been suggested that these activities may have been a screen to draw in victims, hiding the scam behind a veil of legitimacy. But I've not seen sufficient evidence to persuade me that is more likely than not the case.

I've mentioned the filing of accounts by Company H and that this continued until 2019. From there it failed to provide Companies House with the information it ought to have. Company H went on to collapse in 2022. But whilst this is clearly financial mismanagement, it doesn't show that Company H's intention was to scam investors or that it didn't intend to finance

development projects. The financing of the projects appears to have continued during the period in which Company H wasn't filing accounts.

There are two specific developments Company H was a part of and which Mr N has referred to following the issuing of our investigator's view. So I'll briefly comment on these.

The first is a development which was completed – Development H. Mr N has said that he was told the value of this asset was circa £40 million. But Mr N found a news article in 2024 which said the asset was being sold for £14.6 million. He says this huge difference helps to highlight Company H's fraudulent nature.

However, whilst I've not examined the financials and all that occurred with the Development H project, a simple comparison between the claimed total value of the whole project and the later sale value would appear flawed. I say as much because it's evident that a large proportion (around 64% of the units within Development H were sold prior to the remaining assets (in the form of unsold but tenanted flats, amongst other things) being put up for sale.

As I've said, I've not investigated the sale of Development H, or the circumstances that led to it in detail. It's not my place to do so and nor do I find it's necessary to reach an outcome here. But it can't be ignored that a significant portion of the overall value of Development H was realised through the earlier sale of units within it, meaning they wouldn't have been included in the later sale of the site. And so I don't find that later sale value to be persuasive evidence of a scam.

This also further evidences Company H successfully completed projects and to the expected standard, as would be expected of a legitimate property developer.

Development S is the second project Mr N has referred to, and he believed a significant portion of the money he sent to Company H was to be invested here. He highlights that building work never started and the site was sold on to a different party.

Whilst it may be true that building work didn't start and the site has been sold on, that isn't sufficient evidence to show a scam has taken place. It's evident Company H was accepted as a legitimate purchaser of the site originally. And it secured planning permission for what appears to have been a complex project. There even appears to have been backing from local government. It then seems to be documented that there were numerous challenges on site, not limited to pressure from locals to develop the site in other ways. And ultimately the site was sold on when Company H fell into financial difficulty. All of which has led to Mr N losing his money. But there's insufficient evidence to show that loss is because of a scam, as opposed to be being down to the overall failure of Company H.

It is the case that investigations outside of this service remain ongoing, including those being carried out by the liquidator. But I've no evidence from any such parties to show Company H was operating a scam. It might be that changes in time and new material evidence may become available. Should that be the case, Mr N would be able to ask Lloyds to reconsider the matter and may be able to refer a complaint back to this service should he be unhappy with its response.

But, as things stand, I'm not persuaded the payments made by Mr N are covered by the CRM Code. And so the answer given by Lloyds is fair and reasonable.

I've gone on to consider some of the further points raised alongside the issue as to whether Company H was operating a scam or not. These include whether Lloyds ought to have stepped in to question the payments and given warnings at the time they were being made, and whether Mr N's vulnerabilities ought to lead to a refund. I'll deal with those points in turn.

The CRM Code states, broadly speaking, that firms should look to identify payments that present a scam risk and then deploy a proportional response to that risk. Typically, the response would involve delivering what the Code describes as an 'effective warning'.

The payments involved here might be argued as both high in value and out of character for Mr N. And in turn there could be an argument for saying Lloyds ought to have carried out a proportionate intervention and delivered an effective warning.

But, even if I were to find there had been a failure to intervene on Lloyds's part here, I still wouldn't be able to say that Mr N was due a refund under the Code. That's for the same reasons I've set out above; the protection of the Code and the eligibility for reimbursement don't apply. And so I couldn't make an award on the basis that part of the Code hadn't been met by Lloyds when there would be no entitlement to a refund anyway.

I've also thought about whether Mr N would be due a refund outside of the Code. There are industry standards, codes, and best practices which broadly mirror the requirements of the Code. And there are circumstances in which I might find a firm had failed to act and had, in turn, gone on to fail to prevent an avoidable loss. But for an award to be made I would still need to be satisfied the loss was the result of a scam. It wouldn't be fair and reasonable for a firm to reimburse a failed investment. It isn't for a firm to advise as to the wisdom of investment decisions. Any reimbursement would still be dependent on the loss being the result of a scam, and here I'm not persuaded it was.

The final point for me to comment on is around vulnerability. The Code has specific sections which discuss enhanced protection for vulnerable customers. But, again, this only applies when the payments involved are the result of a scam and so covered by the Code. But that isn't the case here. That being so, the reasons that a consideration of vulnerability don't lead to a different outcome are an echo of what I've already set out above.

I am sorry that Mr N has lost such a significant sum of money here. It's clear he's not received what was promised by Company H and it has let him down badly. But I'm not persuaded Lloyds should fairly and reasonably now be responsible for that loss or seeing Mr N reimbursed.

My final decision

I don't uphold this complaint against Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 3 September 2025.

Ben Murray
Ombudsman