

## **The complaint**

Mr S is unhappy that TSB Bank plc won't refund a payment he says he made as part of a scam. He brings the complaint via solicitors, but for simplicity I've referred to the actions of Mr S throughout this decision.

## **What happened**

Mr S was told about an opportunity to invest in a construction company, I'll call H, that was building luxury accommodation by a friend who had experience in similar investments. He contacted H and was promised a fixed rate of return of 12% annually, and shown professional looking literature detailing the opportunity. So Mr S decided to invest – and sent H a transfer for £20,000 on 4 April 2019.

Mr S received several returns from H, totalling £2,650 – but after the final credit in August 2020, Mr S heard that H had run into financial difficulties. He didn't receive any further payments, and says he assumed the investment had failed. But after speaking to his solicitors in 2024 he came to realise he might have been scammed.

A complaint was raised with TSB, which argued the payment should be refunded as it didn't carry out sufficient fraud checks prior to allowing it. TSB's final response declined to refund the money, as it thought the payment was made to a genuine company that had unfortunately gone into administration. As it believed the dispute was a civil matter between Mr S and H, and the transfer predated the introduction of its Fraud Refund Guarantee (FRG) on 14 April 2019, TSB didn't think it was liable to cover the loss. Mr S didn't agree with the outcome and so referred the complaint to our service for review.

One of our investigators considered everything and didn't think the complaint should be upheld. In her view, the evidence supported H was likely a genuine construction company – particularly given the number of development projects it had completed. The investigator thought that showed the funds were intended to be used for the stated investment. She acknowledged some of the factors that caused Mr S concern about their legitimacy, like the involvement of unregulated introducers promoting unlikely returns, and not filling its annual accounts. But, overall, the investigator didn't think those elements meant H was definitely a scam – and she could also find nothing to support that conclusion from H's liquidator.

Mr S didn't accept the investigator's opinion, and asked for the complaint to be reviewed by an ombudsman. So the matter was 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.

Having done so, I'm not upholding the complaint, for broadly the same reasons as given by the investigator. I appreciate that will come as a great disappointment to Mr S, who has sadly lost a lot of money. I have a great deal of sympathy for what he's been put through.

But, on balance, I can't fairly say TSB should refund the loss. That's because I'm not persuaded the payment was lost to a scam, and I've explained why below.

There's been a longstanding regulatory expectation on firms to monitor for signs of fraud, and to act where there are clear indications a customer might be at risk. A failure to intervene appropriately, or reasonably attempt to recover fraudulent payments, can mean a firm is liable for some or all of the loss. This payment pre-dates the introduction of TSB's FRG and the bank did not sign up to the Contingent Reimbursement Model (CRM) code (a voluntary scheme that provided refunds in certain scenarios) – so neither are relevant to this complaint. Any responsibility TSB had, from a fraud prevention perspective, was predicated on the disputed transaction having been lost to a scam. The bank wouldn't be responsible for losses arising from, say, a civil dispute or failed investment. So I need to decide whether Mr S was likely tricked into sending this money to a scam – or if H was a failed investment.

Mr S has referred to the definition in the Fraud Act 2006 of fraud (which is essentially when someone dishonestly and knowingly makes a false representation with intention of making a gain). I've also taken into account the regulator's definition of Authorised Push Payment (APP) fraud – which is perhaps more relevant to the bank's obligations in the matter. So I need to be satisfied that H set out to dishonestly deceive Mr S, and didn't intend to use the funds for the purpose of the investment when the payment was made. Though I can understand why Mr S has concerns about aspects of H's business practices – on balance, I haven't been persuaded that it set out to defraud him. Instead I've found the available evidence supports that H more likely intended to act in line with the agreement on which the transfer was made (both Mr S and H's purposes for the payment aligned). Mr S believed the payment was for a legitimate property investment, so I've considered the evidence for whether that was what H had in mind for the money.

H completed three of the promised developments around the country, which were large scale projects requiring huge amounts of planning and oversight. I appreciate H may have still owed some contractors money for work done on those. But coordinating and completing projects that large strongly suggests it was operating as a genuine company and wasn't a scam. It also had other projects it was working on but eventually sold to other developers after coming into financial difficulty. I think that supports the view that the intention was likely to use the money towards the investment. The liquidator is understandably still investigating the large number of transactions connected to H's operations, with the various subsidiaries involved making that a difficult task. But so far the liquidator hasn't provided any evidence this was a scam.

Mr S has pointed to the involvement of unregulated introducers being paid high commission as evidence for H being a scam – as that meant the promised rates of return were unlikely. Whilst that could be seen as questionable business practices, I don't think that means H wasn't intending to invest the money into development projects. I think the work completed and started shows it was attempting to make a profit to provide the returns to investors (some of which was paid).

Another point raised is that H hadn't filed accounts for a while, meaning its finances weren't audited for that time. I can appreciate why Mr S believe that indicates H had something to hide. While that might suggest financial mismanagement, I don't find it to be conclusive evidence that H intended to scam investors. In the period concerned, when the accounts weren't filed, H was completing property developments and attempting to deliver on others. So I don't think the potential mismanagement of the accounts is strong enough evidence for me to conclude that H was never intending to use Mr S's funds towards the promised projects.

I have every sympathy for Mr S and the other investors who lost money as part of this

scheme. But I've not seen enough evidence the funds obtained weren't used towards the purpose of property development, or that H set out to scam Mr S. So I don't find that the transaction he's complained ought to be refunded by TSB.

### **My final decision**

My final decision is I don't uphold Mr S's complaint about TSB Bank plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 October 2025.

Ryan Miles  
**Ombudsman**