

The complaint

Mr M complains that Lloyds Bank PLC ('Lloyds'), won't refund the money he lost when he says he fell victim to an 'Authorised Push Payment' ('APP') investment scam.

Mr M brings his complaint with the assistance of professional representation. For ease of reading within this final decision, I will refer solely to Mr M.

What happened

The background to this complaint is well known to both parties, so I won't repeat it all in detail here, but in summary I understand it to be as follows.

Mr M says he was persuaded to invest with a company which I'll refer to as 'Company N' in my decision. Company N was a mining company based abroad. In June 2020, Mr M made a payment of £5,000 from his account with Lloyds to Company N's UK based bank account. The payment was for a loan note, for a two-year term, with Mr M receiving 12% interest per annum on his funds, with returns payable every six months.

Mr M received £300 returns as planned in December 2020, but then the payments stopped. Administrators were appointed in 2021 and subsequently the directors of Company N voted to put the company into liquidation in August 2022.

Mr M believes the investment wasn't genuine and that he is the victim of a scam. He complained to Lloyds claiming it failed in its duty of care (amongst other things) and that it should reimburse him under the Lending Standards Board's Contingent Reimbursement Model ('CRM') Code, which was in force at the time Mr M made his payment and that Lloyds was a signatory of.

Lloyds issued a final response to Mr M. It declined reimbursing him, advising it was a private civil dispute as Company N was a genuine company that experienced difficulties and went into liquidation. So, it considered it was a genuine investment that had failed and not a scam. It advised Mr M to contact the administrators regarding the possibility of recovering any funds. Lloyds also advised that if Mr M had been recommended Company N by a broker – and they were registered with the Financial Conduct Authority – then he may be able to raise a claim with them. Lloyds also advised it didn't think it could have prevented Mr M's loss at the time of making the payments either as it had no reason to believe that there was an issue with the payment. Finally, Lloyds also noted that if further information came to light at a later date, such as any convictions secured against Company N, then it would be happy to review Mr M's claim again.

Unhappy, Mr M referred the matter to our service for an independent review. The Investigator who considered this complaint didn't recommend that it be upheld. She said the evidence available was consistent with Company N being a legitimate company which Mr M's investment was being made to fund. And while Company N failed, she considered the purpose that Mr M had made the payment, and the purpose Company N had, was broadly in line. So, she didn't consider there was sufficient evidence to conclude that the definition of an APP scam had been met. This meant that she couldn't ask Lloyds to consider Mr M's complaint under the CRM Code for the payment he had made.

Mr M didn't agree with the Investigator's findings, so the complaint has 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.

In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – in other words on what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

Mr M's representative has made detailed submissions in support of his complaint. I would like to assure Mr M that I've read and considered everything that has been submitted. However, I don't intend to respond in similar detail. I'm 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 – which is whether Lloyds acted fairly in its answering of the complaint that the matter is a civil dispute, and it is therefore not liable to reimburse Mr M under the provisions of the CRM Code. 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.

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. But there are circumstances when it might be fair and reasonable for a firm to reimburse a customer even when they have authorised a payment.

Under the CRM Code, the starting principle was that a firm should reimburse a customer who was the victim of an APP scam, except in limited circumstances. But the CRM Code only applied if the definition of an APP scam, as set out in it, is met.

I have therefore considered whether Mr M's claim falls within the scope of the CRM Code, which defines an APP scam as:

“...a transfer of funds executed across Faster Payments...where:

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

- (ii) *The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.”*

It is for Mr M to demonstrate that he is the victim of an APP scam.

To decide whether Mr M is the victim of an APP scam as defined in the CRM Code I have considered:

- The purpose of the payment and whether Mr M thought this purpose was legitimate.
- The purpose the recipient (Company N) had in mind at the time of the payments, and whether this broadly aligned with what Mr M understood to have been the purpose of the payment.
- Whether there was a significant difference in these purposes, and if so, whether it could be said this was as a result of dishonest deception.

Mr M thought he was investing in a mining company based abroad. I haven't seen anything to suggest that he didn't consider this to be a legitimate purpose.

In reaching an answer on what purpose Company N had in mind, I've considered the wider circumstances surrounding Company N and any linked businesses.

While Mr M's representatives have advised that the returns weren't received and that the returns being offered were 'too good to be true' – that doesn't necessarily or automatically indicate Company N had fraudulent intent from the outset. I am also mindful no convincing evidence has been put forward, so far, that indicates Company N were likely operating a scam when it took Mr M's payment.

Company N were in business from 2015. Having reviewed the liquidators reports on Companies House, I can see that Company N had genuine subsidiary companies based abroad and that were sold during the liquidation process. And these underlying businesses were carrying out mining activities – so the same activity/purpose that led Mr M to invest with Company N. On the whole, it seems Company N was a genuine company that failed, and there has been no evidence put forward by way of any external investigation by a statutory body to suggest this was a scam or Ponzi scheme or that it obtained customer funds fraudulently.

Having considered all the evidence provided to me and available in this case, I'm not persuaded there is sufficient evidence to conclude that the purpose Company N had in mind when it took payment from Mr M was different to his. So, I consider Lloyds acted fairly in not considering Mr M's complaint under the CRM Code.

If material new evidence comes to light at a later date, Mr M can ask Lloyds to reconsider his fraud claim.

I've gone on to think about whether Lloyds should be held responsible for Mr M's loss for any other reason. In broad terms, the starting position at law is that a financial institution such as Lloyds is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

Taking into account the law, regulations, guidance, standards, codes, and industry practice I have referred to above, (including the PAS Code), Lloyds should have been on the look-out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things) though. And, in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment.

While the payment Mr M made to Company N was considerable, I'm not persuaded that Lloyds would have had any concerns about it. Company N was a legitimate company, and I'm also mindful detailed documentation was provided and there was nothing in the public domain at the time to suggest Lloyds should have been concerned that Mr M might be falling victim to a scam.

I don't intend any comments or findings I've made in this decision to downplay or diminish the impact this scam has had on Mr M. It's very unfortunate he has lost this money in this way, and he has my sympathy. But in the circumstances, having carefully considered everything, I don't find Lloyds acted unfairly in its answering of the complaint that the matter is a civil dispute – and therefore not covered by the provisions of the CRM Code. Nor do I find Lloyds could have reasonably prevented Mr M's loss here or that there were any other failings on Lloyds's part that would lead me to uphold this complaint.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 12 December 2025.

Matthew Horner
Ombudsman