

The complaint

Mr C complains that Lloyds Bank PLC (“Lloyds”) didn’t refund him the money he lost, to what he believed to be an Authorised Push Payment (“APP”) investment scam.

In bringing his complaint to this service Mr C is represented, but for ease of reading I will refer to Mr C throughout this decision.

What happened

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

In or around September 2019, Mr C became interested in an investment opportunity, which involved investing into loan notes for property developments with a company I’ll refer to as ‘H’. Believing everything to be genuine, on 12 September 2019 he made a payment of £25,000 from an account he held with Lloyds, with a further payment of £20,000 being made on 7 January 2020.

H went into administration in 2022, and Mr C wasn’t able to withdraw or recover any of the money he invested, he now believes H were operating a scam.

Mr C complained to Lloyds in June 2024, but it didn’t uphold his complaint. In summary, Lloyds said it didn’t consider what had happened to be a scam, rather that it was a failed investment and as such it thought this was a civil matter between Mr C and H.

Unhappy with Lloyds’ response, Mr C brought his complaint to this service. One of our Investigators looked into things, but didn’t think the complaint should be upheld. In summary, she said she hadn’t seen sufficient evidence to say that this was a scam.

Mr C didn’t agree with our Investigator’s view and sent detailed submissions outlining the reasons, which I have summarised below;

- The Investigator misdirected themselves as to the test for intervention by Lloyds when considering the application of the Contingent Reimbursement Model (CRM Code).
- Given the uncharacteristic nature of the payment instructions, Lloyds should have intervened under the CRM Code.
- Mr C was vulnerable and so should be reimbursed.
- The Investigator failed to give appropriate weight to evidence that indicates H operated a Ponzi or other fraudulent scheme and the evidence supports that H was a scam risk.

As agreement couldn’t be reached, the complaint has been passed to me for a decision.

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 C has made some detailed submissions in support of his complaint. I've read and considered everything he has sent in, but I don't intend to respond in similar detail. 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.

I'm not upholding this complaint for materially the same reasons as our Investigator. I'll explain why.

Is Mr C entitled to a refund under the CRM Code?

Lloyds was a signatory to the CRM Code. This is a scheme through which victims of scams could (in certain circumstances) receive reimbursement from the banks involved. The CRM code doesn't apply to all APP payments which ultimately result in a loss for the customer. It only covers situations where the payment meets its definition of an APP scam. The relevant definition for this case would be that Mr C transferred funds to another person for what they believed was a legitimate purpose, but which was in fact fraudulent.

I've considered the evidence available, but I can't fairly conclude that Mr C has been the victim of a scam in line with this required definition. This means the CRM code doesn't apply to his payments and so Lloyds isn't required to reimburse him under it. Our Investigator covered in detail why they considered the payment purpose Mr C had in mind, and the purpose in which the recipient had matched. I'm in agreement with them that this was the case, I'll explain why.

It's accepted Mr C's purpose for making the payments was to invest in H and for the funds to be used towards property development. And that he was persuaded at the time this was a legitimate venture. I accept that H failed to deliver what was expected from the investment, but I haven't seen any clear evidence this was always what it intended; or that at the time of the payment, it planned to use Mr C's funds in a different way to what was agreed. I haven't seen persuasive evidence that H's intention was to defraud Mr C when it took his funds.

In making my judgment on this, I'm conscious H completed three separate developments. It was also working on other projects which it sold on to other developers when it ran into financial difficulty. These actions are indicative of a company operating legitimately.

At the time of the payments, H was a limited company that had been incorporated and operating since 2011. I'm aware H hasn't filed accounts since 2019, and it went into administration in 2022. But financial mismanagement isn't enough to show it was not intending to use the funds for development projects. To the contrary, projects were being worked on/completed during the period when H wasn't filing accounts.

Mr C's representatives argue the high commission paid to unregulated introducers is an indicator of fraud. But I don't think the lack of regulation by the introducers, nor the use of commission, is enough to show H wasn't intending to use the money it received to fund building projects.

I appreciate some investigations are ongoing. But at this point in time, I haven't seen any persuasive evidence from H's liquidator, or any other external bodies, to show H was receiving funds for use in developments it had no intention of completing. Ultimately, the information we currently hold suggests that H was a failed investment venture, not a scam.

All things considered, in the circumstances of this case, I can't agree Lloyds was wrong to consider Mr C's situation a civil matter or is wrong not to have reimbursed him under the CRM code at this time.

This also means I'm unable to ask Lloyds to reimburse Mr C on the basis that he was vulnerable at the time the payment was made. When the CRM Code applies, a customer can be reimbursed if they meet the definition of vulnerable, even when an exception to reimbursement applies. But as that's not the case here and the CRM code doesn't apply, I can't reasonably ask Lloyds to reimburse Mr C.

Is there any other reason I could ask Lloyds to refund Mr C?

For the purposes of this decision, even if I were to accept that what has happened was a scam (which for the avoidance of doubt and for reasons explained above I don't), I'm not persuaded that I would reach an outcome that would lead me to ask Lloyds to refund Mr C.

I say this because, 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 (in this case, the 2017 regulations) and the terms and conditions of the customer's account. But that isn't the end of the story. Good industry practice required that Lloyds be on the lookout for payments that were out of character or unusual to the extent that they might have indicated a fraud risk. On spotting such a payment, I'd expect it to intervene in a manner proportionate to the risk identified.

However, in the individual circumstances of this case, given the factors I've explained above and the information that would've been available at the time, I'm not persuaded that any level of intervention that could fairly have been expected of Lloyds would've uncovered any meaningful negative information, such that Mr C wouldn't have continued with his payments. I say that as, at the point the payments were being made, H was a legitimately registered company and there wasn't anything in the public domain at the time to suggest Lloyds should've been concerned that Mr C might be falling victim to a scam.

Alongside this, I've seen some of the promotional literature which was given out for the investment with H. It's persuasive and comprehensive information for investors which sets out how it operates, and the returns expected. It seems highly unlikely that a conversation with Lloyds would've prevented Mr C going ahead with the investment when he would've had access to this kind of information and, additionally, his belief in the legitimacy of H.

Lloyds couldn't have known what was going to happen to the company and how that might impact Mr C, and, in any event, it wasn't required to provide any investment advice. There is debate to this day (even with the benefit of hindsight and information that has come to light since) as to H's intentions when taking payments from Mr C and others. So, I think it's highly unlikely anything conclusive would've been available at the material time.

Similarly, given the length of time (September 2019/January 2020 until June 2024) between the payments being made and Mr C approaching Lloyds, alongside the fact that by that point, H had entered administration, I don't think anything Lloyds did or didn't do would've impacted whether a recovery of funds from the receiving account could've been made. I think it's more likely than not that any recovery efforts were destined to fail after such a long period of time.

I'm sorry to hear of what's happened to Mr C and I have a great deal of sympathy for him. He has lost a significant amount of money and I don't doubt he has been badly let down by H. But I'm not persuaded this is something that Lloyds can fairly be said to be responsible for. And it follows that there isn't a reasonable basis upon which I can require them to do more to resolve this complaint.

If new material evidence comes to light at a later date to show H was operating a scam, then Mr C would be able to ask Lloyds to reconsider this matter (and may ultimately be able to refer the issue back to us if he is unhappy with Lloyds' response).

My final decision

For the reasons outlined above, my final decision is that I don't uphold this complaint.

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

Stephen Wise
Ombudsman