

The complaint

Mr R complains about Lloyds Bank PLC.

He says that he has been the victim of a scam and would like Lloyds to refund him the money he has lost as a result.

What happened

Mr R made an investment of £25,000 with a company I will refer to as 'V'.

However, Mr R now feels that he has been the victim of a scam and would like Lloyds to refund him the money he has lost.

Mr R made a complaint to Lloyds about what had happened. Initially, it refunded him £8,750 – which was 50% of the last two payments Mr R made. However, it then changed its stance on the matter, and said that Mr R had not been scammed, but that it was a civil dispute between Mr R and V.

However, Lloyds also noted there was an ongoing investigation into V by the Financial Conduct Authority ("FCA"), and if it turned out that V was operating as a scam, they would look into the complaint again.

Mr R was unhappy with this and so brought his complaint to this Service.

Our Investigator looked into things and concluded that there was enough information available to say that V was very likely to be operating as a scam – and that they did not think it was required for Lloyds to wait for the FCA to conclude its investigation into the matter.

They therefore assessed the complaint under the Lending Standards Board's Contingent Reimbursement Model ("CRM") Code. They felt that Mr R had a reasonable basis for believing the investment was genuine, so they did not think an exception to reimbursement applied and recommended that Lloyds refund Mr R 100% of his losses, taking into account that it had already refunded some of the loss.

Mr R accepted this, but Lloyds did not. It said that it did not think it could be concluded that V was operating as a scam until the FCA's investigation was concluded, and therefore felt our service should wait until the investigation being carried out by an official body was concluded.

It also said that, then when it initially considered Mr R's complaint under the CRM code, it did not think that he conducted enough checks before parting with his money, and that the rate of return was too good to be true.

As no informal agreement was reached, the complaint has been passed to me to make a final 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.

Is it appropriate to determine this complaint now?

I have considered whether it would be appropriate to delay my decision in the interests of fairness, as I understand that the FCA investigation is still ongoing.

There may be circumstances and cases where it's appropriate to wait for the outcome of external investigations. But that isn't necessarily so in every case, as it may be possible to reach conclusions on the main issues on the basis of evidence already available. And it may be that the investigations or proceedings aren't looking at quite the same issues or doing so in the most helpful way.

In order to determine Mr R's complaint, I have to ask myself whether, on the balance of probabilities, the available evidence indicates that it's more likely than not that he was the victim of a scam rather than a failed investment. But I wouldn't proceed to that determination if I consider fairness to the parties demands that I delay doing so.

I'm aware that Mr R first raised his claim with Lloyds in April 2024 and I need to bear in mind that this service exists for the purpose of resolving complaints quickly and with minimum formality. With that in mind, I don't think delaying giving Mr R an answer for an unspecified length of time would be appropriate unless truly justified. And, as a general rule, I'd not be inclined to think it fair to the parties to a complaint to put off my decision unless, bearing in mind the evidence already available to me, a postponement is likely to help significantly when it comes to deciding the issues.

I'm aware the above processes might result in some recoveries for V's investors; in order to avoid the risk of double recovery, I think Lloyds would be entitled to take, if it wishes, an assignment of the rights to all future distributions to Mr R under those processes in respect of this investment before paying anything I might award to them on this complaint.

For the reasons I discuss further below, I don't think it's necessary to wait for the outcome of the FCA's investigation for me fairly to reach a decision on whether Lloyds should reimburse Mr R under the provisions of the CRM Code.

Has Mr R been the victim of an APP scam, as defined in the CRM Code?

It isn't in dispute that Mr R authorised the three payments totalling £25,000. Because of this the starting position – in line with the Payment Services Regulations 2017 – is that he's liable for the transaction. But Mr R says that he has been the victim of an authorised push payment (APP) scam.

Lloyds has signed up to the voluntary CRM Code, which provides additional protection to scam victims. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam (except in limited circumstances). But the CRM

Code only applies if the definition of an APP scam, as set out in it, is met. I have set this definition out below:

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

- (i) The Customer intended to transfer funds to another person, but was instead

- (ii) 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.

The CRM Code is also explicit that it doesn't apply to private civil disputes. The wording in the code is as follows:

"This Code does not apply to:

b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."

I've therefore considered whether the payment Mr R made to V falls under the scope of an APP scam as set out above. Having done so, I think that it does. I'll explain why in more detail.

Our service is now aware of a number of issues related to V, which suggest to us it is more likely they were carrying out a scam, which I've set out below.

- We are now aware that V's claims of being at least in the process of being regulated with relevant bodies such as the FCA in the UK and the CSSF in Luxembourg are false.
- There is no evidence to substantiate V's claims around the profits they say they were able to generate via Forex trading.
- Less than half of the funds sent to the two founders was potentially used for the intended purpose of Forex trading. Whereas Mr R sent funds to V with the understanding they would immediately be moved to a trading account to be used in Forex trading
- V's account provider has shown that when V applied for accounts it lied at least twice, this was about partnering with a trading exchange and that it was regulated.
- We have also seen evidence that none of the funds sent to V's business accounts was used for the intended purpose of trading in Forex.

With this in mind, I don't think that V was using investor funds, such as Mr R's, for the purpose they were intended for. And I think this difference in purpose is down to dishonest deception on V's part. It follows that I think this complaint meets the definition of an APP scam as set out in the CRM Code above.

Is Mr R entitled to reimbursement under the CRM Code?

Generally, there are two exceptions to reimbursement under the CRM Code (there are other exceptions but these do not apply here)

- Mr R ignored an 'Effective Warning'
- Mr R made the payments to V without a reasonable basis for belief that they were for genuine goods/services; and/or V was legitimate.

Lloyds didn't provide Mr R with an effective warning (which it acknowledged when it originally paid Mr R 50% of the last two payments he made). So, I don't think that Lloyds can rely on this exception to reimbursement.

I have also considered whether Mr R had a reasonable basis for belief in the investment with

V – and taking everything into account, I think that he did. I'll explain why.

- Mr R spoke with the introducer 'L' at length about the investment via message and video calls prior to Mr R making his investment
- There was no negative information at the time about V that Mr R could have seen prior to making the payments.
- V held professional events, including meet and greets where Mr R could meet with other investors, introducers and individuals behind the investment

So, I don't think that would have caused Mr R doubts about the legitimacy of V when he decided to invest.

I note that Lloyds seems to have indicated that it doesn't think that Mr R did enough research into what he was doing – but it is unclear if it thinks this is because Forex is a high-risk investment, or if it is suggesting that Mr R didn't have a reasonable basis for belief as the proposed return was too good to be true.

This seems at odds with its final response letter where it explained that it didn't think that there was anything else that Mr R could have done and apologised that its fraud team had taken a different view.

In any event – I think that there is enough information available to determine that Mr R was the victim of a scam, and not simply invested his money in a scheme that has not gone as hoped. And I don't think there was anything Mr R could have done to uncover the scam prior to making his investment.

Putting things right

Lloyds Bank PLC should refund Mr R his loss in full (minus any funds already paid to him) and pay 8% simple interest from the date of the investigators view (less any lawfully deductible tax).

My final decision

I uphold this complaint. Lloyds Bank PLC should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 10 June 2025.

Claire Pugh
Ombudsman