

The complaint

Mr R complains ClearBank Limited won't refund the full amount of money he lost to a scam.

What happened

The background to this complaint is well-known to both parties, so I won't repeat it in detail here. But in summary and based on the submissions of both parties, I understand it to be as follows.

Mr R complains that on 25 June 2022 he made two payments from his account held with ClearBank to what he believed was a legitimate investment.

Mr R says he first found out about the investment after watching a video on a social media platform. Mr R started to send money from various accounts over a long period of time but later found out through the media that it was a Ponzi scheme. So, Mr R logged a complaint with ClearBank.

ClearBank looked into the complaint but didn't uphold it. It said the payments were not of a value that would triggered its payment checking systems. So, Mr R brought his complaint to our service. Our investigator looked into the complaint but didn't uphold it. Our investigator didn't think it had been sufficiently evidenced that Mr R had lost money to a scam. He said that although Mr R had sent some screenshots and statements, there was no information to show Mr R had done anything other than buy cryptocurrency.

As Mr R remained unhappy, the complaint's 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.

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.

Where the evidence is incomplete, inconclusive, or contradictory, I must make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

In line with the Payment Services Regulations (PSR) 2017, consumers are generally liable for payments they authorise. ClearBank is expected to process authorised payment instructions without undue delay. As a bank, it also has long-standing obligations to help protect customers from financial harm from fraud and scams. But those are predicated on

there having been a fraud or scam. So, to start, I've considered whether Mr R was a victim of a scam.

Having considered the information Mr R and his representative have sent to support his claim that he was scammed, I'm not satisfied it shows me more than Mr R making a transfer of funds to another bank account in his name, then into a cryptocurrency wallet that was also in his name.

Mr R hasn't sent any evidence of contact with a scammer or someone asking him to transfer money, or most importantly that he suffered a loss after the money entered his crypto wallets.

Mr R has sent screenshots of a registration page with his name on, but there is nothing to show he went ahead and sent money to the platform after he signed up to it. The other screenshots Mr R has sent are generic and don't show any link to him or him sending any money.

Mr R and his representative haven't said why there's no evidence of payments being requested and made but having seen the number of transactions Mr R claims to have sent to the scam, I find it most likely this would've been done over some kind of messaging service or email and should still be available for Mr R to retrieve. Unfortunately, although our investigator has asked, this hasn't been supplied.

Mr R's representative has sent a trace report that it says shows some of Mr R's money was sent to wallets in the name of scammers. I've looked at this report and considered it carefully, but in my view it's not possible to tell who owns the wallets highlighted.

Mr R also has several complaints across different banks with our service, and throughout the time Mr R says he was sending money to cryptocurrency platforms then on to the scammer's wallets, he was also receiving several sometimes-large returns (and Mr R has said recently that he received no returns from the investment). These went on for around a year and almost the full time Mr R says he was losing his money to the scammers. This is not typical of someone that's been scammed and as I've said above, although Mr R originally said he got returns, he has since said he received no returned funds.

Mr R has provided some documents to the Financial Ombudsman in support of his claim that he has fallen victim to a scam – for this and other complaints he has raised against different financial firms. I've given Mr R's submissions very careful consideration. From this, I'm satisfied Mr R purchased cryptocurrency and sent funds via a bank. But I haven't seen anything to specifically show that these transactions (and which ones if so) were carried out in relation to a scam. So, while I've considered Mr R's testimony, I can only be satisfied that he made legitimate transactions on his account – but not that the ultimate beneficiary of the funds was a scammer.

That said, even if I were to be satisfied Mr R had fallen victim to a scam, I'm unable to establish the actual loss Mr R claims to have suffered. This is because I can't be satisfied that Mr R didn't benefit from some of the transactions (due to an absence of evidence of why they were made), along with many coming back to an account in his own name. And without being able to establish the loss actually suffered (if any), I can't fairly or reasonably direct ClearBank to refund Mr R the disputed transactions.

So based on everything I've seen, on balance, I'm not persuaded or satisfied it's been sufficiently demonstrated that Mr R made these payments to a scam, and it created a loss. This is because of Mr R's lack of evidence to show that he was in contact and convinced by a scammer to send money, or something to show where the money ended up.

So, although I've explained ClearBank has obligations when its customers are sending payments, these are predicated on there having been a fraud or scam. I know Mr R will be disappointed by this outcome, but for the above reasons, I don't think ClearBank has acted unfairly by not providing a refund.

My final decision

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 R to accept or reject my decision before 24 April 2025.

Tom Wagstaff
Ombudsman