

The complaint

Ms E is unhappy Clydesdale Bank Plc, trading as Virgin Money ('Virgin'), hasn't refunded her the money she lost after falling victim to an authorised push payment ('APP') investment scam.

Ms E has brought the complaint with the assistance of a professional representative. For ease of reading throughout this decision I will refer solely to Ms E.

What happened

The details of this case are well-known to both parties, so I don't need to repeat them at length here. In summary, Ms E fell victim to an investment scam.

Ms E was looking to invest in order to rebuild her financial standing as a result of a divorce in 2021, where she suffered domestic and economic abuse. Ms E has said she was thinking of investing into an ISA. But Ms E was introduced to an investment company, which I'll call 'B', by a colleague who was a retired solicitor. B were based abroad in Dubai. Ms E says her colleague showed her a video advert of a celebrity endorsing B, and an 'app' on his phone that showed his investments were doing well. Ms E, interested in investing, was then put in touch with someone I'll refer to as 'Mr P' who was 'Managing Director of UK Portfolios' of B.

Ms E says Mr P was professional and B hosted webinars also. Ms E believing everything to be genuine, decided against investing in an ISA and proceeded to invest with B. Ms E invested £250 initially, to make sure it went into the account, and then she proceeded to invest £20,000 in June 2024. Ms E made a payment of £5,000 on 11 June 2024 and £15,000 on 12 June 2024 from her account with Virgin.

Ms E believing things to be going well and seeing good returns decided to invest a further amount with B. In July 2024, Ms E attempted to make a payment from an account she held at another banking provider. The payment was stopped, and Ms E was required to go into a branch and speak with its fraud team and also watch scam videos. As a result, the scam was stopped.

Ms E contacted Virgin on 22 July 2024 to report the matter and to see whether her funds could be recovered or re-imbursed.

Virgin considered the case under the Lending Standards Board's 'Contingent Reimbursement Model' Code ('the CRM Code'). This was a voluntary code that was in force at the time and which Virgin was a signatory of. The CRM Code required firms to reimburse customers who have been the victims of APP scams like this in all but a limited number of circumstances.

Virgin assessed Ms E's scam claim alongside the provisions of the CRM Code, and on 14 August 2024, it reimbursed her for 50% of her loss (£10,000). It considered it could have taken more steps to protect Ms E from the scam and therefore hadn't met its obligations under the CRM Code. But it declined reimbursing Ms E in full, as it said one of the listed exceptions to reimbursement in the CRM Code applies, in that it believed Ms E didn't carry out enough checks or take enough reasonable steps to check if the company was genuine. So, it offered partial reimbursement and considered the responsibility for the loss should be shared.

Virgin also contacted the receiving bank (the bank where Ms E paid her funds to) but received a response advising no funds remained meaning no funds could be recovered and returned to Ms E.

Ms E, unhappy that she had not been reimbursed in full, formally complained to Virgin about the outcome it had reached. On 25 September 2024, Virgin issued its final response explaining that it considered it had reached the correct outcome.

Unhappy with Virgin's response, Ms E brought her complaint to this service. One of our Investigator's considered the complaint. In short, they considered that Ms E hadn't received any investment documentation detailing the investment and expected returns which they considered was a red flag. And they also considered that it ought to have been concerning that Ms E was being asked to pay into an account in the name of the company that was different to B. Given the amount Ms E was investing, they considered Ms E ought to have carried out more checks to verify the company. So, they considered Virgin had acted fairly in saying an exception to reimbursement applied as they agreed that Ms E had acted without a reasonable basis for belief when making the payments.

Ms E provided further evidence of her contact with B, including emails, a contract with B and screen shots of the app which showed the investment platform and how her investment was performing. Ms E considered she held a reasonable basis of belief at the time of making the payments. Upon reviewing this further information our Investigator considered the rate of return was too good to be true which should have given Ms E cause for concern. The Investigator remained of the opinion that Virgin had acted fairly and reasonably in choosing to decline reimbursing Ms E in full under the CRM Code.

Ms E disagreed and considered she held a reasonable basis of belief at the time of making the payments. She also referenced her personal circumstances and divorce which she considered made her vulnerable at the time of making the payments.

Our Investigator wasn't minded to change their opinion – and considered Ms E had taken some steps to check B and therefore wasn't vulnerable to an extent that she was unable to prevent herself from falling victim to the scam. So they didn't consider Ms E should be reimbursed in full under the 'vulnerability' provisions within the CRM Code.

As Ms E didn't accept the Investigator's opinion, the complaint has been passed to me for 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.

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. And that is whether it was fair for Virgin to decline reimbursing Ms E in full 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 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.

I'm sorry to disappoint Ms E but I'm not upholding her complaint. I know she's been the victim of a cruel scam and I don't doubt that these events have had a significant impact on her. But I don't believe Virgin has acted unfairly or unreasonably in not reimbursing Ms E in full under the provisions of the CRM Code. I'll explain why.

There's no dispute that Ms E authorised the payment that is the subject of this complaint, even though she did so as a result of being deceived by a fraudster. Broadly speaking, under the account terms and conditions and the Payment Service Regulations 2017 (which are the relevant regulations here), she would normally be liable for them. But that isn't the end of the story.

Where a customer has been the victim of a scam it may be appropriate for the bank to reimburse the customer, even though payments have been properly authorised. Of particular relevance to the question of what is fair and reasonable in this case is the CRM Code.

The CRM Code required firms to reimburse customers who have been the victims of APP scams like this, in all but a limited number of circumstances and it is for Virgin to establish one of the listed exceptions set out in the CRM Code.

Under the CRM Code, a Sending Firm (in this case Virgin) may choose not to reimburse a customer if it can establish that*:

- The customer made the payment without having a reasonable basis for believing that: the payee was the person the Customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate.
- The customer ignored what the CRM Code refers to as an "Effective Warning" by failing to take appropriate action in response to such an effective warning.

**Further exceptions outlined in the CRM Code do not apply to this case.*

Here Virgin has accepted that it didn't meet the standards required of it under the CRM Code, and on that basis has reimbursed Ms E for 50% of her loss. So, the question that remains is whether Virgin acted fairly in seeking to decline full reimbursement of Ms E's losses.

In this case, I think Virgin has been able to establish that it may choose not to reimburse Ms E in full under the terms of the CRM Code. I'm persuaded one of the listed exceptions to reimbursement under the provisions of the CRM Code applies.

Taking into account all of the circumstances of this case, including the characteristics and complexity of the scam, I don't think Ms E had a reasonable basis for believing the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate.

In order to determine whether this exception to reimbursement applies, I must ask if she made the payment she did whilst having a reasonable basis for belief that all was genuine. Having carefully reviewed everything I'm afraid I don't find that's the case. I'll explain why.

I appreciate Ms E was told of B by a colleague who she trusted and respected given his previous profession. And she was showed his app which showed his investments doing well and also an advert endorsed by a celebrity. And I also accept that there were sophisticated elements of the scam – such as liaising with Ms E being put in touch with Mr P and there being webinars. But I also consider there were some key elements that suggested things might not be as they seem and that Ms E ought to have approached things with far more caution than she did.

Ms E has provided some of the documents and correspondence she had with B. The documentation, when Ms E was going to invest further with B in July 2024, suggests that the objective was to invest \$70,000 with the goal of growing the portfolio to \$320,000 within six months. While I appreciate that this documentation was provided in July 2024 when she was intending on investing further, I have to reasonably infer that the rates Ms E was informed of were broadly similar when she invested initially in June 2024.

The rate of return being promised here is simply too good to be true. Ms E would be getting around four times her investment back within six months.

To my mind the rate of returns being offered should have put Ms E on notice that all might not be as it seems and that something might not be quite right. And to an extent that she ought reasonably to have carried out far more checks on the company or into whether the rates of return being offered were plausible to verify B and to ensure the investment opportunity was a legitimate one. And having carried out more checks, I think it's more likely than not Ms E would have spotted some of the elements I've gone on to mention below which ought to have given her further cause for concern that something might not be quite right.

The credit agreement that has been provided albeit for the later July 2024 investment – is fairly basic in what it sets out. There are four bullet points setting out the agreement. It sets out that B is to extend a line of credit to Ms E in the amount of 70,000 – with it being unclear as to whether this was in USD or GBP, and that amount is to be repaid by Ms E to B by 12 July 2024. It then sets out that no interest shall be charged on the outstanding balance and Ms E can make the payments to B through 'Accepted Payment Methods'. So, the agreement doesn't stipulate or set out what B's obligations to Ms E are regarding the investment. While this was a later agreement, again I can only infer that this was typical of any agreement Ms E may have entered into with B in June 2024.

And from looking at the email correspondence Ms E has provided, I can see an email from Mr P dated 10 June 2024 which has an address in the footer for Dubai, and on 11 June 2024 Ms E receives an email from the 'finance department' which has an address in the footer for an Island within the Mozambique channel of the Indian ocean. While I can understand Dubai may not have given any cause for concern – the same business having its finance department based in a fairly small and remote island ought to have led to some doubts and questions over the potential legitimacy of things.

It also appears that in an email Ms E receives from Mr P on 11 June 2024, she is required to pay into an account in the name of 'S' at a bank I'll call 'Bank B' and is instructed to put the reference as 'Professional consulting Services'. But later on that day, Ms E receives another email from the 'finance department'. She is again provided with the details of where to pay, but this time it is for a different bank account and for a different company, at a bank I'll call 'Bank C'. But it appears Ms E paid the original details that she had been provided – those belonging to Bank B. I think a genuine investment firm would have its own business account that its clients could pay into directly. And I think it ought to have been concerning to Ms E that B didn't, and that she should have also been concerned that she was also provided with two different bank accounts for two different companies.

Overall, having looked at the available evidence and testimony provided by both parties, I consider there to have been enough warning signs that ought to have caused Ms E to be concerned that she was being scammed, which she does not appear to have reasonably acknowledged or acted upon. It seems to me that Ms E took what she was being told at face value. The returns promised were simply too good to be true. And I can't see that Ms E questioned how such high levels of returns could be guaranteed or realised and within such a short time frame also.

As a result, I'm satisfied Ms E should've had reasonable cause for concern that things might not be as they seem at the time she made the payments from Virgin. But it doesn't appear that she made adequate enquiries into the legitimacy of things or what she was being told. I might understand how in isolation any one of these things may not have prevented Ms E from proceeding. But when taken collectively I think there were sufficient red flags here that reasonably ought to have led Ms E to have acted far more cautiously than she did.

So, I think Virgin can fairly rely on one of the exceptions to reimbursement – that Ms E made the payment without a reasonable basis for believing that the payment was for genuine goods or services and/or the person or business with whom she transacted with was legitimate.

Ms E has raised that she was vulnerable at the time of making the payments – due to her divorce and the domestic and economic abuse she suffered. Under the provisions of the CRM Code where a consumer is deemed as vulnerable, they are entitled to full reimbursement.

I am sympathetic to what had happened to Ms E, and I thank her for being open and honest in this regard. But I am mindful that Ms E was divorced in 2021 – so some years prior to making the payments. And while I acknowledge that she was looking to invest, to further her financial stability as a result of her past, I can't fairly say that she was vulnerable to an extent whereby she was unable to protect herself. Indeed, Ms E has said she was looking to invest and was considering an ISA and that she carried out some checks on B which included looking at some reviews about B online. So, it seems to me that Ms E was able to carry out some checks. And here I think the returns being promised meant she ought to have carried out more checks than she did.

I therefore don't consider Ms E ought to be reimbursed in full under the provisions of the CRM Code relating to 'vulnerability' as I'm not satisfied she was unable to take steps or carry out some additional checks to protect herself.

Recovery of funds

I have also considered whether Virgin did all it could to try and recover the money Ms E lost. Virgin was limited in terms of what it could do here; it could only ask the Receiving Firm (the beneficiary bank where the funds had been sent) to return any money that remained in the recipient account. It needed to make enquiries quickly for the best chance of recovery. The evidence I've seen persuades me Virgin did act quickly after Ms E reported the matter. While Ms E, after realising she was the victim of a scam, reported the matter promptly – it was unfortunately sometime after she had made the payments. Sadly, it is common for fraudsters to withdraw or move the money on as quickly as possible. And here Virgin received a response from the Receiving Firm to say that no funds remained.

Summary

I'm sorry Ms E lost her money in this way, and I don't underestimate her strength of feeling and why she thinks this money should be returned. But for the reasons explained, I don't find that she had a reasonable basis for believing the payment was for genuine goods or services; and/or the person or business with whom she transacted was legitimate. So, I consider it was fair and reasonable for Virgin to decline to reimburse her losses in full under the CRM Code as one of the listed exceptions to full reimbursement applies.

My final decision

For the above reasons, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms E to accept or reject my decision before 3 October 2025.

Matthew Horner
Ombudsman