

## The complaint

N, a limited company, complains that Starling Bank Limited won't refund the money it lost when it was the victim of what it feels was a scam.

## What happened

In 2024, N found out about an opportunity to invest in a building company. N's director had met one of the directors of the company at a social event and, sometime later, was told about the opportunity to invest with the company. And as N knew a number of other people who had invested with the company and received returns, N decided to invest as well.

N understood the building company had a contract to install air conditioning units for a major hotel chain, that its investment would be used to fund this work and that it would receive interest payments in return. And N then made a payment from its Starling account to fund their investment, as set out below:

Date	Amount
27 May 2024	£50,400

Unfortunately, N didn't receive the interest payments it understood it would and the building company stopped responding to its communication. N then found out the building company had gone into administration and, after speaking with other investors who had lost money, it felt it had been the victim of a scam and reported the payment to Starling.

Starling said it was unable to provide a definitive outcome due to a number of ongoing investigations and the scale of the assessment. It offered N £200 as compensation for delays in its response to its claim, but didn't agree to refund the payment it had made. N wasn't satisfied with Starling's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They thought the available evidence suggested the building company had intended to defraud investors. And they didn't think Starling had established that it didn't have to refund N here. So they recommended Starling refund the money N had lost. Starling disagreed with our investigator, so the complaint has been passed to me.

## 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 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 and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the firm to reimburse the customer even though they authorised the payment.

At the time of the payment, Starling was a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This required firms to reimburse customers who had been the victim of certain types of scams, in all but a limited number of circumstances. But customers were only covered by the code where they had been the victim of a scam – as defined in the code.

*Is it appropriate to determine this complaint now?*

Starling has argued that the building company is the subject of an ongoing police investigation, and that it would not be fair and reasonable to hold it responsible for payments made to the company until this investigation is concluded or it is conclusively determined whether and from when the company was committing fraud.

The CRM code allows for it to wait for the outcome of this investigation before making a decision on whether to reimburse them.

R3(1)(c) of the CRM code says:

*“If a case is subject to investigation by a statutory body and the outcome might reasonably inform the Firm’s decision, the Firm may wait for the outcome of the investigation before making a decision.”*

And there is an ongoing police investigation into the building company. So I’ve considered whether the outcome of this investigation is reasonably likely to impact Starling’s reimbursement decision and so whether it’s fair for it to rely on R3(1)(c) to delay making a decision on this case, or whether it would otherwise be appropriate to delay my decision in the interest of fairness.

There may be circumstances and cases where it’s appropriate to wait for the outcome of external investigations and/or related court cases. 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. I’m conscious, for example, that any criminal proceedings that may ultimately take place might concern charges that don’t have much bearing on the issues in this complaint; and, even if the prosecution were relevant, any outcome other than a conviction might be little help in resolving this complaint because the Crown would have to satisfy a higher standard of proof (beyond reasonable doubt) than I’m required to apply (which is the balance of probabilities).

The Lending Standards Board has also said that the code does not require a criminal test to have been met before a reimbursement decision can be reached. Nor does it require a firm to prove the intent of the third party before a decision can be reached.

So, for reasons I’ll explain in more detail below, I don’t think it’s necessary to wait for the outcome of any connected court case for me fairly to reach a decision on whether Starling should reimburse N under the provisions of the CRM code. I’m not persuaded that the outcome of the police investigation will impact Starling’s reimbursement decision under the CRM code. And I’m satisfied there is already convincing evidence to demonstrate on the balance of probabilities that those who invested with the building company were dishonestly deceived about the purpose of the payments they were making and that N was most likely the victim of a scam. This means its claim reasonably ought to have been assessed and it’s not necessary or reasonable for Starling to rely on R3(1)(c) of the CRM code or to delay my decision on this case.

*Has N been the victim of a scam, as defined in the CRM code?*

The relevant definition of a scam from the CRM code is that the customer transferred funds to another person for what they believed were legitimate purposes but were in fact fraudulent.

The CRM code also says it doesn't apply to private civil disputes, such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier.

So in order to determine whether N has been the victim of a scam as defined in the CRM code I need to consider whether the purpose it intended for the payment was legitimate, whether the purposes it and the building company intended were broadly aligned and then, if they weren't, whether this was the result of dishonest deception on the part of the company.

From what I've seen, I'm satisfied N made the payment here with the intention of investing with the building company. It thought its funds would be used to fund work the company had been contracted to do by a major hotel chain, and that it would receive interest payments in return. And I haven't seen anything to suggest that N didn't think this was legitimate.

But I think the evidence I've seen suggests the building company didn't intend to act in line with the purpose for the payment it had agreed with N.

I'm aware the building company did have a genuine contract to carry out work for the major hotel chain it mentioned to investors. But the administrators for the company have confirmed the value of the contract to the company between 2021 and 2024 was £4.4 million, but that when it went into administration the company owed £25.3 million to investors. So the company had raised far more from investors than the available evidence suggests it needed to fulfil the contract.

It also appears the building company had been deceiving investors about future work it would receive from the hotel chain. A number of investors were told the hotel chain planned to refurbish a large number of hotels around the country and that this would lead to around £18 million in revenue for the building company. But there's no evidence of this kind of income on the company's account statements and, as the administrators have said, the actual amount the company received from the hotel chain was significantly lower than this.

The administrators have said they cannot confirm exactly how much of investor's money was used to carry out work for the hotel chain, or in the ordinary course of business, but it is significantly lower than the amount raised by the investors. Administrators also said one director loaned himself around £560,000, which has not been paid back. And that company funds have been spent on a number of seemingly non-company related expenses, including:

- around \$6 million spent on sponsoring an American-based motor racing team between October 2020 and May 2024
- around £500,000 spent by one director on home improvements, which was not paid back to the company
- around £4 million sent to Spanish bank accounts, which the directors of the company say was to raise investment but are now claiming has been lost due to fraud
- around £2 million sent abroad for supposed investment purposes, which the directors of the company have told administrators has now been lost due to fraud committed against the company

Our service has also reviewed information relating to accounts held by the building company. And while I can't share details of this information, it appears to show there was a large amount of spending from the accounts that wasn't related to the company's contract with the hotel chain or other business purposes and appears to have been used for sponsorship or personal reasons – in line with what the administrators have said.

The building company also told investors it had a credit insurance policy with a large insurance provider, which would provide protection for investors if something went wrong. But the insurance provider has told police that there was no policy in place with the company and that the policy number the building company gave investors didn't match its policy number format.

So I think the available evidence shows the building company wasn't acting in line with the business model and features of the investment it had led N to believe it was making. And so the purpose the building company intended for the payment N made wasn't aligned with the purpose N intended for the payment.

And as the directors will have known they intended to use the majority of investors' funds for a different purpose and were misleading investors about the amount of future work it would receive from the hotel chain and the insurance policy, I also think the discrepancy in the alignment of the payment purposes between N and the building company was the result of dishonest deception on the part of the company.

I appreciate that some investors' money will have been used to carry out work for the hotel chain, and that we don't know what specific payments the building company received were made towards that work. But, overall, I'm satisfied that this wasn't a legitimate investment and N's and other investors' funds weren't being used in the manner they were led to believe they were. So, regardless of where N's specific payment went, the building company and its model was illegitimate and N was deceived on this point.

I'm also aware that some investors received a number of interest payments back from the building company, and so did receive some returns on their investments. But a victim initially receiving returns is a common feature of a number of scams, so I don't think this means that the building company was using investors' money as they understood or wasn't operating a scam here. Many of the building company's investors were based locally, and so it seems likely the company provided returns to gain trust within local communities.

And I've considered that there may be evidence our service does not have access to or that may become available at a later date. But, for the reasons I've explained above, I'm satisfied there is sufficient evidence available here for me to come to a fair and reasonable decision on this complaint and I don't consider it likely that the outcome of any ongoing investigation would significantly affect the conclusions I have reached.

And so I'm still satisfied it is safe to conclude that the circumstances here meet the definition of a scam from the CRM code.

#### *Is N entitled to a refund under the CRM code?*

As I explained above, Starling was a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This code required firms to reimburse customers who had been the victim of authorised push payment scams, like the one I've explained I'm satisfied N fell victim to, in all but a limited number of circumstances. And it is for the firm to establish that one of those exceptions to reimbursement applies.

Under the CRM code, a firm may choose not to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made
- The customer made the payment without a reasonable basis for believing that:
  - o the payee was the person the customer was expecting to pay;
  - o the payment was for genuine goods or services; and/or
  - o the person or business with whom they transacted was legitimate

There are further exceptions within the CRM code, but these don't apply here.

*Did N ignore an effective warning in relation to this payment?*

The CRM code says that an effective warning should enable a customer to understand what actions they need to take to address a risk and the consequences of not doing so. And it says that, as a minimum, an effective warning should be understandable, clear, impactful, timely and specific.

Starling has said that, when the payment was set up, it showed N a warning which said:

***“Could this payee be part of a scam?”***

*Always verify who you are sending money to as **you may not be able to recover these funds**. A fraudster may tell you to ignore these warnings. Call us on 159 (or 0207 930 4450) or visit **our website** for scam advice.”*

Once the payment was set up and requested, Starling then also placed it on hold and asked N a number of questions about the purpose and circumstances surrounding it. These questions included asking what N was investing in, to which N replied that it was a building and maintenance project, and asking how N found out about the investment, to which N replied that a family member or friend recommended it.

Starling also showed several further warnings during and after these questions, which said:

*“Make sure you research a company before you invest in them by checking independent reviews from other people.*

*If the returns sound too good to be true, it's probably a scam.*

*We also recommend speaking to an FCA-regulated financial advisor before making a private investment.”*

And...

*“Take a moment to think. A bank or any other organisation will never tell you to move money to a new, ‘safe’ bank account.*

*Fraudsters can make phone calls appear to come from a different number.*

*If you transfer money to a fraudster, you might not get it back.*

*If you're not sure the payment is genuine, stop and call us on 159.”*

But while these warnings do highlight the possibility of scams and the importance of researching any company you are investing in, I don't think they go into enough detail on what an investment scam of this type would look or feel like. I also don't think they are

specific enough about the checks someone could do to try to avoid falling victim to an investment scam. And the final warning talks about being told to move money, which wasn't relevant to N's circumstances.

So I don't think these warnings Starling gave were clear or specific enough to be effective in N's circumstances. And so I don't think Starling has established that N ignored an effective warning in relation to the payment here.

*Did N make the payment without a reasonable basis for belief?*

I've also considered whether N acted reasonably when making this payment, or whether any warning signs ought to have reasonably made it aware that this wasn't a genuine investment.

But N's director was told about the possibility of investing in the building company by one of the building company's directors, who lived locally to N's director's family and who N's director had previously met in-person at a social event. N's director has also said the director of the building company had known their family for some time and their family believed them to be trustworthy. And I think it's reasonable that this will have made N think the building company was legitimate and I don't think anything about the way it was introduced to the company or the investment should have caused N significant concern.

N's director has also said one of their family members had been previously offered the chance to invest with the building company and had spoken with their financial advisor about it, who said it appeared legitimate. The family member had also spoken to a number of people in the local area who had also invested in the building company, who were all long-standing friends and all said they had received interest payments and had no reason to doubt the company. So I think N took reasonable steps to try to satisfy itself that the investment was legitimate, and I think it's reasonable that these personal recommendations will also have made N think the investment was legitimate.

The building company had been listed on the government's register of limited companies and filed accounts for a number of years before the payment N made here. N was shown paperwork relating to the investment, including an investment agreement and a contract between the building company and the hotel chain, which looked relatively professional and legitimate. And it was also given a number of assurances by the director of the building company, including about the company's continuing relationship with the hotel chain and the insurance policy covering the investment, which I don't think it would be reasonable to have expected it to uncover were false. So I don't think anything N was told or shown should have caused it significant concern that the investment wasn't legitimate either.

And so I don't think Starling has established that N made the payment without a reasonable basis for belief that the investment was legitimate.

I therefore don't think Starling has established that any of the exceptions to reimbursement under the CRM code apply here, and so it should refund the money N has lost, in full.

### Customer Service

Starling has accepted that there was a delay before it initially provided N with an outcome to its claim, as a result of an error on its part. And I think the £200 Starling has offered is fair and reasonable compensation for the inconvenience this error caused N. So I don't think it would be fair to require Starling to pay any further compensation here.

## Redress

I haven't seen anything to suggest N received any payments back or returns from the building company after making the payment here. So its loss to be refunded is £50,400.

I also don't think any action I would've expected Starling to take would have prevented N making this payment, as I don't think any of the information I would've reasonably expected it to have uncovered at the time of the payments would've uncovered the scam or caused it significant concern.

But I do think there was sufficient evidence available at the time N reported the payment and raised their claim with Starling for Starling to assess its claim and conclude that it had been the victim of a scam. So I think Starling should have refunded N's losses in its original response to its claim, and so should now pay 8% interest on this refund from the deadline for its original response to the claim until the date of settlement.

### **My final decision**

For the reasons set out above, I uphold this complaint and require Starling Bank Limited to:

- Refund N the £50,400 loss it suffered as a result of this scam
- Pay N 8% simple interest on that refund, from the deadline for its original response to the claim until the date of settlement
- Pay N £200 compensation, if it has not already done so

Under the rules of the Financial Ombudsman Service, I'm required to ask N to accept or reject my decision before 9 January 2026.

Alan Millward  
**Ombudsman**