

The complaint

Mr S is unhappy that Clydesdale Bank Plc trading as Virgin Money, has decided not to refund him, after he invested in what he now thinks is a scam.

Mr S is bringing his complaint using a professional representative which I'll refer to as R.

What happened

The background to this complaint is familiar to both parties, so I'll only refer to some key facts here.

- Mr S was looking for property investment opportunities in his local area and came across buy to let holiday Lodges on Facebook advertised by L.
- L was offering investors the opportunity to invest in luxury lodge plots, which were being built as part of the wider development of a holiday resort.
- Mr S was told about an opportunity with an annual return of 9%. At the end of the five-year period L would buy back the lodge at a rate of 10% above the original purchase price.
- On 27 May 2021 Mr S made a CHAPS payment, in a Virgin branch, to L, for £103,950. Initially, Mr S received returns on his investment as agreed, up until mid-2024.
- By mid-2024 payments stopped altogether. In September 2024, Mr S received a letter from L, providing updates about the issues it was facing and ongoing disputes with its partners.

Mr S (and many others) believed L had been operating a scam. Mr L then raised a scam claim with his bank.

Mr S asked Virgin Money to reimburse his losses under the Contingent Reimbursement Model (CRM) Code. Virgin Money said it was not a signatory of the CRM code, at the time Mr S made these payments, so it did not apply the code when considering if it was liable for Mr S's losses.

It also said, at the time Mr S made the payment a scam section on the CHAPS form, was highlighted to him, called "Take Five to Stop Fraud" which Mr S signed, to say he'd read it. Virgin Money staff had no concerns after Mr S completed the paperwork for the payment. And Mr S went on to successfully receive a number of returns until the company went into administration. It concluded that the matter was therefore a civil dispute between Mr S and L. Virgin Money said there were delays in recording his fraud claim and responding to his complaint, which exceeded regulatory timescales. It offered £150 in compensation for the distress and inconvenience this may have caused Mr S.

Unhappy with Virgin Money's response about the scam claim, and with support from R, Mr S referred his complaint to our service.

Our Investigator didn't uphold the complaint. While he noted that it was a complex and evolving situation, he was not persuaded there was currently sufficient evidence to support a conclusion that Mr S had lost money to a scam. As such, considered Virgin Money had acted reasonably by refusing to reimburse Mr S. He added that Mr S's scam claim was not covered by the CRM code.

The investigator went on to consider (outside of the CRM Code), that Virgin Money ought to have done more than provide the written warning on the CHAPs payment form, given the value and nature of the payment. But he didn't think this would have prevented Mr S's losses. He didn't think either Virgin Money or Mr S would have had cause for concern that the payment Mr S was making, represented a potential scam risk at the time, as there wasn't any indication that L was operating as a scam.

R disagreed and presented further evidence that it considered, demonstrated the investment opportunity was in fact fraudulent.

Our Investigator explained why, despite the further evidence presented by R, he was still not persuaded there was sufficient evidence to reach a conclusion that L was operating a scam. And did not permit R an extension to provide further evidence.

The complaint has now 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.

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The investigator considered and corresponded with R, in great detail, over the issue of whether L was operating as a scam at the time it took Mr S's money and contracted with him. The investigator has responded on multiple occasions to R's continued representations and belief that L was operating as a scam. And considered lengthy responses on its requests for extensions to provide further information.

Here, though, I'm satisfied that I don't need to answer the question of whether or not Mr S was most likely scammed. This is because I don't think I could uphold the complaint either way, for the following reasons.

R has referred to the Contingent Reimbursement Model (CRM) code. This was introduced by the Lending Standards Board in 2019. It is one of the more recent initiatives in response to the increasing amount of fraud and scams. Generally, where the CRM code does apply (which is not everywhere), it requires firms to reimburse customers who have been the victims of APP scams in all but a limited number of circumstances. The CRM code, however, does not cover private civil disputes. However, even if I accepted that Mr S's case here isn't about a private civil dispute but about it actually having been scammed by L, I still couldn't ask Virgin Money to refund Mr S under the CRM code. This is because the CRM code is voluntary. And whilst Virgin Money is covered under the CRM code from 28 February 2022, this isn't retrospective. So, I wouldn't be able to reasonably tell Virgin Money to refund Mr S's payment (made in 2021) on the basis of the CRM code.

The CRM code, however, didn't and doesn't replace other various and long-standing obligations payment service providers like Virgin Money have to be alert to fraud and scams and to act in their customers' best interests. But these obligations are predicated on there having been a fraud or scam. So, if L was not operating a scam, Virgin Money had no obligation to prevent Mr S's payments to L, and so I couldn't reasonably hold it responsible for not preventing the payments.

If, on the other hand, L was operating a scam, I'm satisfied I still couldn't reasonably uphold the complaint. So, I don't intend to comment on the scam or civil dispute points further. I have focussed the decision on the relevant finding from the investigators view that – at the time Mr S made the payment, could Virgin Money have prevented his losses.

And having done so, I have reached the same outcome as our Investigator and for largely the same reasons. I realise this will come as a disappointment to Mr S but based on the evidence that is currently available and for the reasons I'll set out, I don't think Virgin Money is required to reimburse his losses. I'll explain why.

Should Virgin Money have prevented Mr S's losses?

I've considered whether Virgin Money could've done any more at the time of the payments to prevent Mr S's loss.

Beyond the CHAPs form and scam notification that Mr S signed to say he'd read, I've not seen evidence to suggest that Virgin Money intervened and discussed the payment with Mr S prior to releasing it. But, even if it had, I'm not persuaded that the information he'd have presented would've suggested that he might be at risk of financial harm. At the time Mr S made the payment there was no indication that L wasn't operating as a legitimate company or that Mr S should have had any cause for concerns from any searches or checks he could have made at the time. Whilst R has presented detailed and lengthy information about L and why it believes it was operating as a scam, this has come to light long after Mr S's investment. So, I can't say that Virgin Money should have prevented Mr S's losses here.

I've no doubt that this will be extremely disappointing to Mr S, given the loss he's suffered and the impact it has undoubtedly had on him, but I'm unable to say that Virgin Money are liable to reimburse his loss.

Virgin Money paid Mr S £150 in compensation for its delays and the distress and inconvenience caused. Neither Mr S nor R has commented on this in its submissions to our service, rather it has focussed on the consideration of the matter as an APP scam or a civil dispute. As this amount is not in dispute, and I consider it to be a fair and reasonable amount for the delays referred to, I'm not recommending that Virgin Money needs to pay any further compensation here.

My final decision

I do not uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 30 December 2025.

Sophia Smith
Ombudsman