

The complaint

Mr J complains that Starling Bank Limited ('Starling') hasn't refunded the money he believes he lost to an authorised push payment ('APP') investment scam.

Mr J referred his complaint to this service with the help of a professional representative. However, for ease of reading, I'll refer only to Mr J throughout my decision.

What happened

The circumstances of the complaint are well-known to both parties. So, I don't intend to set these out in detail here. However, I'll provide a brief summary of what's happened.

In July 2021, Mr J made a debit card payment and a faster payment, totalling £90,099, as part of an investment with a business, which I'll refer to as 'Company B'. Although Mr J's investment was with Company B, the faster payment was sent to a linked business, which I'll refer to as 'Company L'.

Mr J was led to believe that his investment capital would be used towards the purchase of a holiday lodge, to be sited on a leisure park in Scotland. Company B would then market and rent out the holiday lodge to holidaymakers, generating an income.

Mr J's contract with Company B said he would receive an annual return of 8% of his investment capital (£7,200 per year), paid quarterly, for five years. After the five-year agreement elapsed, Company B was due to buy back the holiday lodge for £99,000.

Between October 2021 and January 2024, Mr J received ten payments from Company B, totalling £19,238.70. However, no further returns have been paid. There is an ongoing police investigation into Company B, and some other connected businesses (including Company L) have entered administration. Mr J now believes he's fallen victim to an APP scam.

Mr J reported the situation to Starling and asked for a refund. Starling considered Mr J's claim but declined to reimburse him. Mr J made a complaint, but Starling reiterated its decision not to refund his loss. Unhappy with Starling's response, Mr J referred his complaint to this service.

Our Investigator considered the complaint but didn't uphold it. In their opinion, there wasn't enough evidence to conclude that Company B was a scam and so our Investigator didn't think Starling could fairly be held responsible for reimbursing Mr J's loss.

Mr J didn't accept our Investigator's opinion. As an agreement couldn't be reached, the complaint has 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.

Mr J has made some detailed submissions in support of his complaint. I've read and considered everything he's sent in, but I don't intend to respond in similar detail. 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.

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 (in this case, the 2017 regulations) and the terms and conditions of the customer's account.

It's not in dispute that Mr J made the disputed payments. So, the payments were authorised and under the Payment Services Regulations, the starting position here is that Mr J is responsible for the payments (and the subsequent loss) despite the payments being made as the result of an *alleged* scam.

However, that isn't the end of the story. Good industry practice required Starling to be on the lookout for account activity or payments that were unusual or out of character to the extent that they might indicate a fraud risk. On spotting such a payment, I'd expect it to take steps to warn the customer about the risks of proceeding.

The first disputed payment was a debit card payment for £1,099. I don't think that payment was so suspicious that Starling reasonably ought to have questioned Mr J about it. So, I don't think Starling reasonably could've been expected to have prevented the payment being made.

I accept Mr J didn't receive what he was expecting from Company B, and his first payment was made by debit card. So, once Starling was aware of the situation, it could've attempted a chargeback. However, Mr J didn't notify Starling of the situation until the relevant timescale under the card scheme's rules had expired. As a result, I don't think Starling ought to have attempted a chargeback that had no reasonable prospect of success. So, I don't think there was anything Starling could've done to recover the funds on Mr J's behalf.

The second payment was an £89,000 faster payment, which Starling reasonably ought to have had concerns about, given it was a large payment to a new payee. Starling did ask some automated questions when the payment was processed, but given the value of the payment, I think human intervention would've been more appropriate. However, regardless of any errors made by Starling in the payment process, I'm not persuaded Mr J has been the victim of an APP scam (as I'll go on to explain) and so Starling can't fairly be held responsible for his loss because it didn't question him through human intervention when the payment was made.

At the time Mr J made the disputed faster payment, Starling was signed up to the Lending Standards Board's Contingent Reimbursement Model ('CRM') Code. The CRM Code provided additional protection from APP scams, but this didn't apply to debit card payments. Also, the CRM Code didn't apply to every APP which ultimately resulted in a loss for a customer. For Mr J's claim to be considered under the principles of the CRM Code, I'd need to be persuaded that it applies in his circumstances.

The CRM Code can only apply to Mr J's faster payment if it meets the CRM Code definition of an APP scam. The relevant definition for this case would be that Mr J transferred funds to another person (or company as is the case here) for what he believed were legitimate purposes, but which were in fact fraudulent.

I'm aware that our Investigator provided a detailed description of the available evidence when they informed Mr J that they didn't think he'd lost money to an APP scam. Our Investigator has also responded, in detail, to the arguments and evidence Mr J has submitted since they issued their view. So, rather than repeat what our Investigator said, I've focused on what I consider to be the key pieces of evidence when deciding this complaint.

Based on the evidence currently available, I'm not persuaded it's most likely that Mr J's been the victim of an APP scam. As a result, I've decided not to uphold his complaint. I'm sure this outcome will be disappointing for Mr J, so I'll explain why.

The circumstances of Mr J's complaint are complex, and I accept he has provided a considerable amount of evidence to support his belief that he's been scammed. I also appreciate that some of the evidence does demonstrate some concerns about the investment and how it was sold to him.

However, the key question I must answer is whether it is more likely than not that Company B intended to scam Mr J at the time he made the disputed payments. I appreciate Mr J feels very strongly that he has been the victim of a scam and I accept it's possible that he has been. However, it's also possible that Mr J's loss is the result of a genuine investment opportunity that ultimately failed.

The development of holiday lodges (including the holiday lodge Mr J's investment was intended to be used towards), on two sites in Scotland, was a joint venture between Company B and a separate business, which I'll refer to as 'Company A'. It would appear that Company L, the business that received Mr J's faster payment, was incorporated to facilitate the joint venture, by receiving investors' funds and distributing these amongst the other companies involved in promoting/selling the investments and carrying on work towards the delivery, marketing and renting out of holiday lodges.

Company A owned the sites it led investors to believe it was intending to develop – and one of those sites (the same site where Mr J believed the holiday lodge he was financing would be sited) is operational. Holiday lodges have been delivered at the site and are available to be rented out by the general public. So, it would appear that investors' funds have been used towards the intended purpose of making the site operational, which gives the impression that there was an alignment between Mr J and Company B as to the purpose of his payment at the time the payment was made.

Mr J says the administrator of one of the companies involved in the investment said the scheme resembled an investment scam. I've reviewed the administrator's comments, and I accept they remarked that there were "*hallmarks of a possible fraud*" and that a "*much wider investigation is needed...to get a full picture*". The administrator's investigation hasn't concluded, and the remarks were made without seeing all the evidence and they are not the final conclusions. So, I don't find this information to be persuasive in determining that Mr J has been the victim of an APP scam.

It's possible that investors' funds haven't been used towards the intended purposes. However, this allegation isn't currently supported by evidence and so again I'm not persuaded that this is enough to demonstrate Company B set out to dishonestly deceive Mr J at the time the disputed payments were made.

Unfortunately, there appears to have been a breakdown in the relationship between Company B and Company A, which has involved court action, with the directors of both businesses making allegations about the other's conduct – and it's possible that this is the reason the investment ultimately failed, rather than it being because of the result of a scam. So, I'm not currently persuaded I can fairly conclude that Mr J has been the victim of an APP scam as defined by the CRM Code, which means I can't apply the principles to Mr J's complaint.

There are ongoing external investigations (including by the police) into the companies involved in Mr J's investment. And it's possible that once those investigations have concluded, evidence may become available which demonstrates investors' funds haven't been used for the intended purpose and that Mr J has, more likely than not, been the victim of a scam. Should that happen, Mr J can ask Starling to reconsider his claim.

I appreciate Mr J has suffered a significant loss – and I have natural sympathy for him. However, based on the evidence currently available, I'm not persuaded Starling is responsible for reimbursing him as I can't currently say his loss is, more likely than not, the result of a scam.

I'm aware that Starling didn't answer Mr J's complaint as quickly as it could've done. It subsequently offered to pay Mr J £100 in recognition of the impact the delay had on him. In the circumstances, I think that's a reasonable amount of compensation.

My final decision

For the reasons explained above, 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 J to accept or reject my decision before 8 January 2026.

Liam Davies
Ombudsman