

## The complaint

Mr and Mrs F complain that The Royal Bank of Scotland Plc ('RBS') have refused to reimburse their losses after they fell victim to what they believe to be an investment scam.

In bringing this complaint Mr and Mrs F are supported by a professional representative that I'll refer to as 'R'.

## What happened

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

In April 2021 Mr and Mrs F responded to an investment offer into a company I'll refer to as '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. There were several connected companies involved in the investment, but for simplicity I'll refer to these companies collectively as L.

Mr and Mrs F were told they would receive an annual return of 8% on their investment (paid quarterly), which would be generated from the lodge's rental income, plus 110% of the original investment paid back after five years as part of a compulsory buy-back clause. Mr and Mrs F made three payments to L, totalling £75,119. They received expected returns between July 2021 and April 2024, totalling £17,554.95.

In July 2024, Mr and Mrs F received an email from L advising that it was having difficulties with external partners and that rental payments would be late. Mr F later chased and was advised that payments were likely to be made in August 2024, but the payment was never made. As Mr and Mrs F had not received their returns as promised, they thought they had been scammed.

R complained to RBS, on Mr and Mrs F's behalf. It said RBS should refund Mr and Mrs F's loss under the Contingent Reimbursement Model ('CRM') Code. It also complained that the payments had not been flagged or stopped as suspicious.

RBS rejected Mr and Mrs F's complaint as it considered their loss stemmed from a civil dispute. It also noted there was a pending police investigation, but said R3(1)(c) of the CRM Code allowed it to await the outcome of that investigation before making a decision.

Unhappy with RBS' response, Mr and Mrs F referred their complaint to the Financial Ombudsman. Our Investigator didn't uphold the complaint as he was not persuaded there was sufficient evidence to demonstrate that Mr and Mrs F had lost money to a scam. As such, he thought RBS had acted reasonably in refusing to reimburse them under the CRM Code.

R disagreed and provided further evidence it believed showed L was operating a scam. In particular it highlighted that:

- Administrators considered the scheme had hallmarks of a sophisticated fraud.
- Large sums of investor money had been transferred to companies linked to L and its director, which were now unaccounted for.
- Investors had been misled into believing they owned the lodges or the plots on which they stood, which L knew was false.

Our Investigator explained why, despite this, he was not persuaded there was sufficient evidence to conclude L was operating a scam which would require RBS to reimburse Mr and Mrs F under the CRM Code:

- The administrator's investigation was ongoing, and he lacked full information on all companies involved. While there were signs of possible fraud, other explanations - such as poor administration or bad business practice - were equally likely.
- Although sales agents may have misrepresented investors ownership, there is insufficient evidence that L made dishonest statements or intended to defraud investors.

R disagreed. It said it would make further enquiries to obtain relevant account information to determine that investor money wasn't used for the intended purpose. But it considered there was already sufficient available evidence to prove that L had directly misled investors with the promise of security for the investment by way of land ownership, and that this did not just come from third party introducers.

R was granted an extension to provide additional evidence to demonstrate how investor funds had been used. That deadline has now passed and to date R has not provided the account statements it wishes to rely on, although it recently asked for a further extension to obtain a court order to get the relevant evidence. In the circumstances, taking into account the time both parties have been afforded to provide evidence, I don't think it is appropriate to delay the resolution of this case any further.

The complaint was passed to me to decide. I issued a provisional decision on 6 January 2026, setting out why I wasn't minded to uphold Mr and Mrs F's complaint. For completeness, I repeat my provisional findings below:

*"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*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 and Mrs F but based on the evidence that is currently available and for the reasons I'll set out, I don't think RBS is required to reimburse their losses under the CRM Code.*

*While I recognise the complexity of this case and that further investigations may reveal new information, I must decide on what's known now. If materially new evidence emerges, Mr and Mrs F can ask RBS to reconsider their claim.*

#### *The CRM Code*

*In broad terms, the starting position in law is that a bank 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 because of the actions of a fraudster, it may sometimes be fair or reasonable for the bank to reimburse the customer even though they authorised the payment.*

*RBS was a signatory to the voluntary CRM Code, which provided additional protection to scam victims while it was in place. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an Authorised Push Payment (APP) scam (except in limited circumstances).*

*When considering Mr and Mrs F's claim, RBS ultimately had one of three options available to it. It could either accept a scam had occurred and consider whether it should reimburse Mr and Mrs F under the CRM Code; it could decide that no scam has occurred and therefore not reimburse them; or, if the case is subject to investigation by a statutory body, it could decide to await the outcome of that investigation before reaching a decision (R(3)(1)(c)).*

*Although RBS referred to R3(1)(c) in its final response to Mr and Mrs F, it also determined that their claim failed on the basis that it was a "civil dispute". RBS has also stated in its submissions to this service that it deemed this matter to be a civil dispute. In these circumstances, RBS cannot seek to rely on the provision R3(1)(c) within the CRM Code. That said whether RBS deems this a civil dispute or seeks to rely on R3(1)(c), doesn't alter the overall outcome here. And in any event as I've set out above it has advised it would review the claim following completion of the police investigation.*

*In reaching this decision my focus has therefore been on whether the definition of an APP scam, as set out in DS1(2)(a)(ii) of the CRM Code, has been met here:*

*"Authorised Push Payment scam, that is, a transfer of funds...where [...]  
(ii) The customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent."*

*The CRM Code is explicit that it doesn't apply to "private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier." This would include a failed investment.*

*I've therefore considered Mr and Mrs F's purpose in making the payments; L's purpose in receiving them; and if there is a significant difference in these purposes, whether I can be satisfied that this was because of dishonest deception by L.*

*Mr and Mrs F intended to invest in a holiday lodge development, on the expectation they would receive quarterly returns and a further 10% return on their investment in year five. I have no reason to doubt that Mr and Mrs F believed this was a legitimate investment.*

*While it is clear L failed to deliver what was expected from the investment, available evidence demonstrates that it had begun developing the holiday site; it had sought planning permission and was letting lodges. There's therefore a prima facie case to say it was a legitimate business that failed rather than a scam.*

*To reach an alternative conclusion, I would need to see clear compelling evidence which demonstrated that not only was L not acting as investors intended, but that its purpose in doing so was fraudulent.*

*I accept there are some issues which have understandably caused investors to have concerns about the legitimacy of the investment scheme and the intentions of L when receiving their funds. And while I will address these in further detail below, overall, I am not persuaded there is currently sufficient evidence to say it's more likely than not L's purpose in receiving payments was fraudulent, or that it was operating a scam.*

## *Security of investment*

*R considers L misrepresented the nature of the investment, such that investors were falsely led to believe they would acquire ownership of the lodge and/or the plot of land on which the lodges sat. R has made the case that investors were therefore falsely induced into the investment believing it was secure, when L knew this was not the case.*

*Having reviewed an email exchange between Mr F and L, prior to the investment being taken out, I can see Mr F was told he would own “the lodge and the plot it sits on”. Based on other evidence, this does not appear to be an accurate statement. The director of A has previously stated there was never any intention for the units to be owned by investors.*

*There is further ambiguity over what the investment entails in the Lodge Plot Sale Agreement, signed by Mr and Mrs F on 21 April 2024. Within this contract it refers both to the buyer agreeing to purchase “the Plot” and at other times to the buyer agreeing to purchase “the Lodge”. Neither term has been properly defined. But while I accept there is ambiguity, and arguably misrepresentations, within the documentation, I have not seen evidence to demonstrate this was done with fraudulent intent.*

*Ultimately, I do not know why the information within Mr and Mrs F’s documentation is ambiguous and/or inaccurate. While it is possible the basis of the investment was deliberately mis-stated to coerce prospective investors into an investment that would never be fulfilled, it could equally be due to poor business practice and/or administrative errors.*

*Further to this point, I have noted that in later years investors were provided with different agreement documents, which removed reference to ownership of the “Lodge” itself. I think this could suggest L recognised an error and sought to correct it in future agreements, or it could suggest it was covering up earlier fraudulent misrepresentations. But ultimately, I don’t think I can safely determine which is more likely, based on the evidence that is currently available to me.*

*While the issues identified in the agreement may give rise to a contractual dispute between Mr and Mrs F and L, this is by its very nature a civil dispute, which as set out above is excluded under the CRM.*

*In any event, there has been no suggestion that Mr and Mrs F intended to make use of the lodge themselves, or that they expected to be able to sell it outside the terms of the compulsory buy-back term of the agreement. Ultimately, I’m satisfied that Mr and Mrs F’s purpose in making payments to the investment was to earn a return on their investment capital, which would be generated from the development of the holiday lodge site.*

*As I have set out above, the evidence presented in support of this complaint does not sufficiently demonstrate that L did not intend to develop the site as advertised, with the profits being returned to investors as agreed. As such, I cannot reasonably conclude that L made a fraudulent misrepresentation.*

## *Use of funds*

*I appreciate there have been questions over how investor funds were used - especially given the development was not completed as expected – and much is still unknown. But in the absence of clear evidence, I cannot safely conclude that investor funds weren’t used as intended.*

*As our Investigator has addressed in some detail, while I appreciate the administrator has raised some concerns that the investment had some hallmarks of a “possible fraud”, he also*

*made it clear that he did not have a complete picture of where funds had gone or how they were used. He noted the need for a much wider investigation, involving various associated companies, to gain a true understanding of how investor funds were spent. Without all the relevant information the administrator could only speculate about the possibility of fraud.*

*This full information about how investor funds were used is still unavailable, and as such, I am in no better position than the administrator to conclude that it is more likely than not a scam.*

*Ultimately, Mr and Mrs F made payments to L as part of a holiday lodge rental investment and the evidence presented to our service doesn't sufficiently demonstrate that L didn't have the intention of carrying out and completing the developments at the time of the payments. Because of this, I'm not satisfied that Mr and Mrs F's claim meets the CRM Code's definition of an APP scam. But should further evidence come to light later which demonstrates that L was operating fraudulently they can ask RBS to reconsider their claim.*

*Should RBS have prevented Mr and Mrs F's loss?*

*Lastly, I've considered whether RBS could've done any more at the time of the payments to prevent Mr and Mrs F's loss.*

*Mr F made the payments to L via telephone banking. RBS provided recordings of the calls, during one of which it gave a generic scam warning mainly about impersonation scams. Even if RBS had asked more questions or given a specific warning about investment scams, I'm not persuaded that Mr F's responses would have indicated a risk of financial harm. Based on what was known about L at the time, I don't think an investment scam warning would have stopped Mr F from proceeding. Therefore, I can't fairly conclude that RBS could have prevented Mr and Mrs F's loss.*

*Overall, while I am sorry to hear Mr and Mrs F have lost a considerable sum of money, based on the evidence available, I'm not persuaded they have fallen victim to an APP scam that would entitle them to reimbursement under the CRM Code. I've no doubt that this will be extremely disappointing to Mr and Mrs F, given the loss they've suffered and the impact it has undoubtedly had on them, but I'm unable to say that RBS are liable to reimburse their loss in these circumstances. Should any material new evidence come to light later, for example from the police or the administrators, Mr and Mrs F can ask RBS to reconsider their claim. But, as it stands, I can't fairly say RBS should reimburse their loss under the CRM Code or for any other reason."*

R responded on Mr and Mrs F's behalf, noting that it was still waiting on bank statements that it considered would likely be crucial in showing what happened to investors' money. It also noted that police have arrested three more people. It said this evidence should be considered rationally alongside other indicators this is a scam. R said it's unlikely the police would continue the investigation and make further arrests if it didn't think fraud had occurred after a thorough investigation.

### **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.

As R has not made any comments or raised any specific objections to the conclusions reached in my provisional decision, I see no need to repeat them here, save to say my provisional conclusions still stand.

In this final decision, I will focus on why I consider it appropriate to determine this complaint now; and why the new evidence presented does not lead me to conclude that RBS acted unreasonably in refusing Mr and Mrs F's claim for reimbursement under the CRM Code.

*Why is it fair I determine this complaint now?*

I think it is important to explain that my role in considering this complaint is to determine whether RBS's refusal to reimburse Mr and Mrs F's losses under the CRM Code was ultimately fair and reasonable in the circumstances.

In deciding that, while I must consider what evidence exists to demonstrate that a scam has more likely than not taken place - as this is something RBS needed to consider when reaching its CRM claim decision - it is not my role to ultimately determine if L was operating a scam. My focus is on whether RBS reached a reasonable conclusion at the time it declined the claim, considering what evidence was available to it.

RBS ultimately reached an outcome when it issued its final response on 7 January 2025. While I accept that evidence may come to light in the future which could show that L was more likely than not operating a scam, it would not be fair or reasonable to conclude that RBS reached an unfair outcome based on evidence that was not available to it at the time, and which still has not been provided more than a year later.

However, should new evidence come to light, Mr and Mrs F can present this to RBS for further consideration. If Mr and Mrs F are ultimately unhappy with its revised CRM claim decision, they can refer a complaint to this service for consideration.

*Does the new evidence demonstrate that L was more likely than not operating a scam?*

I'm grateful to R for sharing an update on the police investigation, and the fact that further arrests have been made. I can understand why this news may seem to investors conclusive that a scam has taken place. But while I do not doubt it indicates *potential* wrongdoing (I'm mindful that individuals have only been arrested, and there is presumption of innocence until proven otherwise), I do not have sufficient information or evidence to reach a conclusion that it is more likely than not that L was operating a scam – although I also do not rule it out as a possibility.

The update from the police is understandably limited in what information has been shared. Crucially, I do not know which individuals have been arrested and as such, I do not know what, if any, connection they had to L; while the police have revealed that arrests relate to fraud and money laundering offences, I do not know specifically what these charges relate to, including the timeframe in which the offences are alleged to have taken place. As such, while I can understand why this information was highlighted to us, it is not sufficiently persuasive to conclude that L was most likely operating a scam.

As such, while I realise this will be disappointing for Mr and Mrs F I'm not persuaded on balance – and at this time - that they have lost money to a scam. So, I'm unable to say that RBS are liable to reimburse them under the CRM Code.

### **My final decision**

For the reasons set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F and Mrs F to accept or reject my decision before 19 February 2026.

Lisa De Noronha  
**Ombudsman**