

The complaint

Mr C complains that Cater Allen Limited won't refund payments he made as a result of an investment scam.

What happened

Mr C made the following payments from his Cater Allen account as a part of a scam to sell shares:

| Date | Description | Amount |
|------------------|--|-----------|
| 19 February 2024 | International payment to a company, that I'll call 'G' | £4,060.80 |
| 2 April 2024 | International payment to a company G | £5,908.46 |
| 16 April 2024 | International payment to a company G | £5,908.46 |
| 8 May 2024 | International payment to a company G | £3,938.97 |
| 10 June 2024 | International payment to a company G | £3,998.38 |

In summary, Mr C was contacted by an overseas company I'll refer to as 'S' who offered to buy shares from him as their client wanted to increase their shareholding to 51%. As part of this, he was asked to pay a 'vendor bond' to G – which he understood to be a refundable deposit to secure his place in that 51%. Mr C was later required to pay various taxes to G, before he'd receive a settlement.

Mr C called Cater Allen to make the international payments. As part of making the first payment, he was asked some questions about it. He told the agent it was 'basically an investment', and it was related to stocks and shares. He also said he'd a personal contact if anything went wrong and he wasn't likely to make another payment. Mr C wasn't questioned about the payments again, but he did volunteer that the later payments were connected to taxes.

Mr C didn't receive the expected settlement for the shares, and he wasn't able to contact S. Having realised he'd been scammed, he disputed the payments with Cater Allen and raised a complaint that it ought to have done more to protect him from the scam. Cater Allen didn't refund the payments, and it declined his complaint, highlighting how Mr C authorised the payments.

Unhappy with the response, Mr C brought his concerns to our service to investigate. I issued a provisional decision which upheld the complaint in part. I said Cater Allen's intervention with the first payment wasn't reasonable and proportionate to the risk of financial harm. And had it done what I'd have expected, I thought the scam would've unravelled. So I recommended Cater Allen pay Mr C his losses from the disputed transactions, less 50% of his losses from payments three to five to reflect his contributory negligence.

Mr C accepted my provisional decision. But he emphasised that he'd never made a transaction that required taxes to be paid before, and that Cater Allen failed when they let him pay taxes before he'd sold the shares. He considered that it also ought to have checked whether the Financial Conduct Authority had issued any warnings about S or G.

Cater Allen didn't accept my findings. It said the matter related to international payments, so it was not covered by any code. It highlighted how I'd reached a different outcome to our investigator, which wasn't reasonable given the lack of code covering the payments and how there was no process or procedural failure as written at the time.

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've carefully considered both responses to my provisional findings, but I've not changed my find about what's a fair outcome to this complaint. Given that Mr C accepted my findings, I'll focus on Cater Allen's response.

Cater Allen has highlighted that these payments aren't covered by a specific code. And I accept that, as international payments, the Contingent Reimbursement Model (CRM – a voluntary code which provides refunds to victims of scams in some circumstances) isn't applicable here.

But that isn't the end of the story, as my investigation isn't limited to whether the CRM applies – it's what fair and reasonable in the circumstances of the case. To explain in more detail, I consider it fair and reasonable that Cater Allen should, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams.
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud.
- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so.
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment.

Indeed, my provisional findings noted that Cater Allen did this in practice, as it intervened with the very first payment. But I explained why I didn't think this intervention was proportionate or reasonable to the risk of financial harm.

I recognise my decision is different to our investigator. But that's because I'm required to carry out my own investigation and reach my own opinion on what's fair and reasonable. And here, I'm satisfied that I've identified a failing and explained how that failing caused Mr C's losses.

It follows that I've not changed my mind about the outcome of this complaint. For completeness, I've included my reasoning below from the provisional decision as well:

- The Payment Services Regulations (2017) set out that, broadly speaking, Mr C is responsible for transactions he authorises, and Cater Allen has a duty to process payment instructions quickly.
- But I must also take into account the regulator's guidance and standards, relevant codes of practice and, where appropriate, what I consider to have been good industry

practice at the relevant time. In doing so, I'm satisfied Cater Allen ought fairly and reasonably to have had account monitoring systems and processes in place which it should use to identify where a customer might be at risk of financial harm through fraud.

- Here, Cater Allen asked Mr C about the circumstances of the first payment he made in the context of protecting him from scams. So I think it's reasonable to say it had identified that he might at risk of financial harm from fraud. And for completeness, that's in line with what I'd expect, given how this was a reasonably significant overseas payment to a new payee, which was uncharacteristic among Mr C's general spending.
- Accordingly, the crux of the matter isn't whether Cater Allen ought to have intervened, but whether its intervention was reasonable and proportionate to the risk of financial harm.
- I've listened to the calls where Cater Allen's agents discussed the circumstances of the first payment. And overall, I don't think it was good enough. I'd expect a firm to ask open and probing questions to best understand the circumstances of the payment. Here, the agent asked Mr C for the reason for the payment. They did then ask him to discuss this more, but before he responded, they included a number of other, generally closed, questions, like whether he was comfortable with it, whether it was his first payment, and what type of services it was. As a result, Mr C only answered the last question, and the conversation continued. And in the same vein, the agent went on to ask Mr C more closed questions – for example, if he was covered should anything happen. When Mr C said yes and referred to a personal contact, the agent didn't probe further.
- Taking this all into account, I think Cater Allen missed the opportunity to understand the overall circumstances of the payment in Mr C's own words – and provide a meaningful and relevant warning based on what he described.
- I've gone on to consider whether, had Cater Allen intervened in the way I'd have expected, it would've prevented Mr C's losses from the first payment. Of course, I can't know for certain what would've happened. But civil disputes like these are only ever decided on the balance of probabilities. In other words, what's more likely than not to have happened. And overall, I'm persuaded it's likely a better intervention would've made a difference here.
- I've noted that in the phone calls where Mr C made these payments, he was forthcoming with information about what they for. For example, he volunteered reasonably detailed information about further payments being for 'taxes' he needed to pay.
- I recognise that in the first call, he referred to the reason for the payment as being 'basically an investment' and the type of services as 'stocks and shares'. But given Mr C's conduct across other calls, I don't think that was a result of him trying to mislead Cater Allen. Rather, I think he was trying to reply succinctly to the agent's questions.
- It follows that, had he been asked open and probing questions, I think Cater Allen would've been able to uncover the circumstances of the payment – that he'd been contacted out of the blue and he was paying a 'refundable vendor fee' to sell shares. While Mr C had been given detailed and convoluted reasons for the necessity of this,

I'd have expected Cater Allen to have been concerned about the risks this was a scam. Afterall, he'd been contacted out of the blue and, at its heart, this was simply an advance fee scam – where victims are encouraged to pay upfront for something that ultimately doesn't materialise.

- With this in mind, I'd have expected Cater Allen to have warned Mr C about the risks of this being a scam. Had this have happened, I'm satisfied he'd have taken heed of the warning and not gone ahead with the payment. In saying that, I've noted that Mr C didn't appear to have been desperate for the transaction to go through – instead, it seemed he'd agreed to the opportunity presented to him. Moreover, Mr C hadn't had to pay in advance to sell shares before, so I think he'd have been receptive to a warning that this didn't sound right. And had he researched the matter further, he'd likely have seen the Financial Conduct Authority's warning that had appeared about S since he had first looked into them.
- It follows that I'm satisfied Cater Allen ought to have done more to understand the circumstances of the payment, and if it had, I think the scam would've unravelled and the payments wouldn't have gone ahead. In these circumstances, I think it's fair and reasonable to hold Cater Allen liable for Mr C's losses.
- I've gone on to think about whether Mr C ought to share the blame for his losses, by way of contributory negligence. The starting position for this is considering how a reasonable person would've acted in the circumstances and whether Mr C's actions fell below that.
- On the whole, I can see how he was taken in by the scam given its appearance of legitimacy – S's website looked professional and he'd paperwork to support the transaction. I also note that, before he signed the 'share purchase agreement', there wasn't much online that could've warned him about S (the FCA's warning was added later).
- While Mr C hadn't paid upfront to sell shares before, I also accept he wasn't an expert in the matter. So I can understand how he was persuaded by the reasons S provided for the payments, and why he thought the process was different as this was an overseas transaction.
- However, I agree with our previous investigators that Mr C had cause for concern as the scam continued. Particularly before payment three when he was asked to pay further sums for supposed taxes that he'd not initially been told about, and when the amounts due to be paid in advance would've been nearly half of what he expected to receive from the settlement. It follows that from payment 3, I think Mr C ought reasonably to have been concerned and should have done more to question what he was being asked to pay.
- Taking this into account, I've reduced what Cater Allen must refund by 50% from payment 3 to reflect Mr C's contributory negligence.

My final decision

For the reasons I've explained, I uphold Mr C's complaint.

Cater Allen Limited must pay Mr C his losses from the disputed transactions, less 50% of his losses from payments three to five – I understand this to be £16,892.17. This should be less any funds already returned to him, which I understand was £6,922.26.

It should also pay him 8% simple interest per year on this amount, from the date of the disputed transactions to the date of settlement (less any tax lawfully deductible).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 16 December 2025.

Emma Szkolar
Ombudsman