

## The complaint

Mr N complains that Starling Bank Limited won't reimburse him after he made payments towards an investment that he now considers to have been an Authorised Push Payment (APP) scam.

Mr N is professionally represented in bringing his complaint, but for ease of reading, I'll refer to all submissions as being made by Mr N directly.

## What happened

Mr N has explained he was put in contact with a firm I'll refer to as 'E' via an investment broker I'll refer to as 'I'. Mr N was told that E was offering an investment opportunity in 'green' energy, whereby waste would be converted to energy. Mr N has explained he met with the director of E multiple times, spoke to others about the director and firm who vouched for its legitimacy and also completed months of his own due diligence before deciding to invest.

Mr N made his first investment payment to E in April 2019 and in total made three payments over around three months, totalling £52,215. He also made payments from another of his banking providers. Mr N initially received returns until June 2021, but these then stopped and Mr N has said he received multiple excuses as to why the returns were delayed and these have since stopped entirely.

Believing he'd fallen victim to a scam, Mr N raised a claim with his bank, Starling. Starling considered his claim but declined to reimburse him. It didn't think Mr N's claim was covered by codes of reimbursement, based on E having gone into liquidation since Mr N's investment.

Mr N remained unhappy and referred his complaint to our service.

An investigator considered the complaint but didn't uphold it. She didn't think the available evidence was sufficient to determine that Mr N's payments met the Contingent Reimbursement Model (CRM) Code's definition of an APP scam.

Mr N disagreed with the investigator's opinion. To summarise some of his concerns, he's raised the following:

- He considers I was set up fraudulently in order to introduce customers to E and there is now an FCA warning in place relating to I.
- Evidence on Companies House about E's director demonstrate he is linked to a number of other dissolved investment companies and that he has links with other individuals associated to fraud.
- There is no evidence that the activity E was alleging it was doing actually took place.
- E misrepresented its assets in order to appear to be an asset-backed firm.

As Mr N disagreed, the complaint has been referred to me for a final decision.

### **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 want to start by saying I recognise Mr N's strength of feeling in this case, and appreciate the lengths he has taken to try and recover his funds. I'm also aware that I've summarised this complaint and the responses 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 – which is to determine whether there is sufficient evidence to conclude that a scam has taken place. 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 an alternative to the courts.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

In broad terms, the starting position at law is that a bank such as Starling is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

Here it's not in dispute that the payments were authorised, so the starting position is that Starling isn't liable for the transactions.

There are, however, some situations where we believe that businesses, taking into account relevant rules, codes and best practice standards, shouldn't have taken their customer's authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before making the payment.

Taking this into account, I need to decide whether Starling acted fairly and reasonably in its dealings with Mr N.

#### *Has Mr N fallen victim to a scam?*

Starling was a signatory of the CRM Code when two of Mr N's three payments were made, which required firms to reimburse customers who had been the victims of authorised push payment (APP) scams in all but a limited number of circumstances.

The relevant part of the CRM Code definition of an APP scam requires that the payment was made to: *“another person for what they believed were legitimate purposes but which were in fact fraudulent.”*

The Code also explains that it does not 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*'.

In order to reach my decision, I've therefore thought about what Mr N's intended purpose for making these payments was, whether this broadly aligned with that of E's and if not, whether this was the result of dishonest deception.

It's not in contention that Mr N's purpose for making these payments was as an investment in a renewable energy scheme. I've therefore thought about what evidence there is available for what E's intentions were.

In reaching a finding, I've had to bear in mind the following:

- Beginning with the firm, I, that Mr N says introduced him to E, I'm aware that there is now an FCA warning about this firm. However I don't agree that I's actions can be relied on to make a finding on E. I'm aware that one of the directors of I later was a director of another firm that E's director then became appointed director of – however, I's director had resigned before any FCA warnings about I had been published. I don't think this link is sufficient to determine that the two directors were working together toward a scam when Mr N made his payments.
- Similarly, regarding E's director being linked to other dissolved investment companies, there are many reasons why a firm can fail and dissolve. While it is, of course, something to take note of, I don't think it's sufficient here to make a link to E being a scam. And likewise, while Mr N has raised concerns about other individuals associated with E's director who are linked to fraud, I don't think it would be fair to make a finding of fraud based on associations with others. I'm aware E's director was also the director of another firm that had a FCA warning published about it. However again, E's director was not associated with that firm when the warning was posted.
- Additionally, I've reviewed the liquidator's report, which shows that E was involved with numerous companies at the time it entered liquidation. Although the liquidators raised concerns over the information it had seen, no comments were made to indicate that a scam had taken place. I acknowledge that it's concerning that there has been a difficulty in tracing funds and incomplete records being maintained – but this could equally be explained by poor business management, rather than an intention to scam investors.
- Mr N has claimed that there is no evidence to prove that E was undertaking the activity it alleged to – but I've not seen evidence to disprove this either. For example, I've reviewed statements for the account where Mr N's funds were received. While the account provider has provided our service with information – it has done so in confidence. It has provided that which is necessary for the determination of this complaint to allow us to discharge our investigatory functions. Due to data protection laws, our service can't share any information about the beneficiaries, the receiving bank accounts or any investigation and action subsequently taken. However I would like to assure Mr N that I have thoroughly reviewed and considered all the information provided before reaching my decision.

Having done so, I can see payments made from E to other accounts that appear to align with E's type of work. I understand Mr N has also raised concerns about the payments between these accounts, as there is some evidence of pre-existing relationships between these accounts and E's director. I understand Mr N thinks these payments were likely part of a broader scheme to deceive. Again, while I acknowledge the links between firms Mr N has raised, these are currently just links. The nature of the relationships and agreements between several of these firms is unclear and without further evidence on these links, I can't conclude that they are sufficient evidence of a scam.

- Mr N considers E misrepresented its assets in order to appear to be asset-backed. I've seen evidence that, when questioned by investors, E's director did provide evidence of his assets, which were obtained via a third party. I'm also aware that in court, the director presented evidence of his ability to repay investors. While I'm aware that Mr N didn't receive any funds back from the director despite this court case (and that he was subsequently declared bankrupt), this again doesn't conclude that E was a scam, rather than that its director became unable to meet this obligation.

Overall, while I'm sorry to disappoint Mr N, I simply can't conclude that there's currently sufficient evidence that E was a scam, rather than a failed investment. I appreciate Mr N feels very strongly about this matter- while my role is to reach a finding based on the balance of probabilities, rather than to the criminal standard, given the serious nature of the allegations involved, I'd want to see convincing evidence to find it more likely than not that E obtained funds for purposes that were fraudulent, and I don't think this bar has currently been met. I'm also aware that there is an ongoing investigation into E by the police, although there's limited information currently available to our service on the progress of this investigation. Should further material evidence come to light as a result of these investigations, Mr N can ask Starling to reconsider his claim, but based on the evidence currently available, I can't conclude that Starling were wrong to decline reimbursement of Mr N's funds.

As I've not found there to be sufficient evidence here that Mr N was the victim of a scam, it follows that I find no basis upon which Starling ought to have prevented these payments from being processed – but for completeness, even if Starling had intervened, I don't think it would have uncovered grounds for declining to process these payments. I say that because, even now with the benefit of hindsight, greater visibility of E's actions based on liquidator reports and further insight into E's association with other firms, I've not been able to determine that Mr N made these payments as the result of a scam. Therefore I don't think Starling would have had sufficient cause for concern at the time the payments were made, particularly given that Mr N had already completed thorough due diligence himself and met with E's director.

### **My final decision**

My final decision is I don't uphold Mr N's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 17 February 2026.

Kirsty Upton

**Ombudsman**