

## **The complaint**

Mr T complains he was misled by Crowd2Let.com (C2L), an appointed representative of Prosper Capital LLP when he made a property investment. As the principal firm he holds Prosper Capital LLP responsible for the apparent lack of oversight by authorising the investment, and therefore responsible for the loss he has suffered.

## **What happened**

C2L ran a crowdfunding platform. Investors could buy shares in companies (special purpose vehicles, or SPVs) set up with the express intent of investing in something. Here, that was generally property.

So, investors bought shares in the SPV, and the SPV purchased a property. Income (for example from rent) could be distributed to investors through dividends, and the shares could be sold to generate a capital return when the properties were sold at the end of the term.

In October 2018, Mr T committed to invest £4,500 in a project to fund the purchase of a property (I'll call Property P). In March 2000, he received a share certificate confirming he held nine shares in the SPV, which was a limited company and named after Property P.

More recently he became concerned about whether the SPV had purchased the property it was designed to. He reviewed records on the land registry and couldn't see that a purchase of Property P had taken place anytime around when he committed his funds and acquired his shares (the register showing the property was not sold between 2004 and 2023).

In August 2024, Mr T raised a complaint with Prosper Capital when it became apparent that the property that he understood his funds would be used to purchase hadn't actually been acquired by the SPV he held shares in.

Prosper Capital responded and said the director of C2L previously told it the purchase of Property P had fallen through and that investors had retrieved their funds – but it accepts this now does not seem to have been the case. It said it was still investigating exactly what has happened with the property.

Mr T responded to say that his investment in Property P was not repaid in any way. He requested a return of his original investment of £4,500 – and he reiterated his complaint.

In October 2024, Prosper Capital sent an interim response to the complaint. It said it was having problems addressing the complaint as it was not currently able to establish the facts to confirm at what point the presumed mismanagement of the investment occurred. It said it suspected the financial misconduct by C2L may have occurred long after the initial investment took place. And as it didn't have oversight of C2Ls services after the shares had been issued it may not have responsibility for any losses Mr T has suffered. As C2L is now insolvent, it requested more time to investigate and obtain records from the liquidator to see where the money went.

Following this Mr T referred his complaint to this service for an independent review.

I issued a provisional decision in January 2026. This is what I said:

*“We can consider a complaint under our compulsory jurisdiction if it relates to an act or omission by a firm in the carrying on of one or more listed activities.*

*Rule DISP 2.3.1R says we can:*

*“consider a complaint under the Compulsory Jurisdiction if it relates to an act or omission by a firm in carrying on...regulated activities...or any ancillary activities, including advice, carried on by the firm in connection with them”.*

*And the guidance at DISP 2.3.3G says:*

*“complaints about acts or omissions include those in respect of activities for which the firm...is responsible (including business of any appointed representative or agent for which the firm...has accepted responsibility)”.*

*To carry out regulated activities a business needs to be an authorised person (section 19 Financial Services & Markets Act (FSMA). We can deal with certain complaints against Prosper Capital, as it is an authorised person. That may include complaints about the acts or omissions of its appointed representatives, such as C2L. That is why this complaint is against Prosper Capital, rather than C2L.*

*Section 39 of FSMA says:*

*“(3) The principal of an appointed representative is responsible, to the same extent as if he had expressly permitted it, for anything done or omitted by the representative in carrying on the business for which he has accepted responsibility.”*

*So, to decide whether we have jurisdiction to consider this complaint against Prosper Capital, there are three issues I need to consider:*

- What are the specific acts Mr T has complained about?*
- Are those acts regulated activities or ancillary to regulated activities?*
- Did Prosper Capital accept responsibility for those acts?*

*What are the acts about which Mr T has complained?*

*In summary, Mr T has complained Prosper Capital is responsible for the investment he intended to make not being carried out as the property detailed in the promotion he responded to doesn't appear to have been purchased by the SPV, and he has failed to have his monies returned.*

*I take the view, the failure for the investment to be carried out as expected is intrinsically linked to Mr T's understanding of the investment when he decided to invest, this includes the information C2L gave him about it before he invested. So, I find the complaint is in reality as much about the sale and arrangement as the subsequent operation of the SPVs. We have an inquisitorial remit and can look at wider issues. In this case I think Mr T's complaint encompasses all of C2L's acts in connection with the arrangements it made for him to purchase shares in the SPVs.*

*Are these acts regulated activities or ancillary to regulated activities?*

*I'm satisfied when arranging Mr T's purchase of shares – C2L were carrying out the following activity:*

*Making arrangements for another person to buy or sell or subscribe for a security or relevant investment (article 25 of the Regulated Activities Order 2001) (RAO).*

*I understand Mr T responded to the promotions set out on C2L's website to invest in the SPV that was due to purchase Property P. Prosper Capital has confirmed C2L operated a website which allows investors to invest in shares in limited companies set up as SPVs to acquire a specific property as a buy to let investment. Investors could choose which specific properties they wish to invest in through the property information documents C2L provided. C2L doesn't hold the properties, rather its role was to set up the SPVs which would do this.*

*In conclusion on this point, I find the activities described here constitute arranging for Mr T to invest and therefore the carrying out of the regulated activity set out above. I also find where C2L was responsible for the content of the financial promotions for each SPV (including the one for Property P), those promotions were in my view made in the course of those arrangements and is therefore, if not part and parcel of the arrangement then at least ancillary to it.*

*Did Prosper Capital accept responsibility for those acts?*

*For us to be able to look at the merits (the rights and wrongs) of the complaint we must be satisfied that the activities carried on by C2L were ones for which Prosper Capital accepted responsibility. To determine this, I've looked at the AR agreement between the two parties.*

*The agreement set out the regulated activities C2L could carry out as part of the agreement. This included arranging deals in investments (article 25 RAO), where the arrangements are for or with a view to transactions relating to securities or contractually based investments. It also included the activity of advising on investments (article 53 RAO). And the activity of agreeing to carry on activities (article 64 RAO), so far as relevant to the above two activities - arranging and advising.*

*So, I'm satisfied that, under the AR agreement, Prosper Capital did authorise C2L to arrange for Mr T to purchase the shares in the SPV and to promote the investment. That is business for which Prosper Capital accepted responsibility under section 39 FSMA. And so, we have jurisdiction to consider whether Prosper Capital met its regulatory obligations when C2L, acting on its behalf, carried out the arrangements that the complaint is about.*

*I'm satisfied I can consider the complaint. This includes whether Mr T was given sufficient information to understand how the arrangement would work before he agreed to invest, as this forms part of the obligations it had to meet Mr T's information needs. I can also consider whether C2L followed its regulatory obligations to ensure it acted in Mr T's best interest and conducted itself with skill care and diligence when arranging the investments. If it failed in its obligations, I can hold Prosper Capital responsible for that and make an award for any losses that I think Mr T has suffered as a result.*

*I've gone on to consider the merits of the complaint.*

*The relevant rules and regulations FCA regulated firms are required to follow are set out in the FCA's Handbook of rules and guidance.*

*The FCA Principles for Business ("PRIN") set out the overarching requirements which all authorised firms are required to comply with. PRIN 1.1.1G, says "The Principles apply in whole or in part to every firm". The Principles themselves are set out in PRIN 2.1.1R. The most relevant principles here are:*

- PRIN 2.1.1R (2) "A firm must conduct its business with due skill, care and diligence."*

- PRIN 2.1.1R (6) “A firm must pay due regard to the interests of its customers and treat them fairly.”
- PRIN 2.1.1R (7) “A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.”

The rules set out in the Conduct of Business Sourcebook (COBS), are also relevant obligations here, particularly:

- COBS 2.1.1R (1) “A firm must act honestly, fairly and professionally in accordance with the best interests of its client.”
- COBS 4.2.1R (1) “A firm must ensure that a communication or a financial promotion is fair, clear and not misleading.”

Mr T has raised concerns that his funds weren't invested as per his understanding of the promotion – i.e. to be used by the SPV to purchase Property P. He has provided some evidence from the land registry to support his view that the property was never purchased.

Before making the property information document for Property P available to investors, C2L needed to satisfy itself that the information contained within it was fair, clear and not misleading. And it also needed to be satisfied that by making the promotion and allowing Mr T to invest in the SPV, it would continue to be acting in his best interests.

As set out above (in COBS 4.2.1R, and under PRIN 7), C2L had regulatory obligations to meet Mr T's information needs. In order to satisfy itself of the fair, clear and not misleading nature of the claims or assertions made in the property information document, C2L would need to carry out reasonable checks. What these reasonable checks involve, or indeed what they might be in any given case, is something which is very much left to each platform to determine and would vary according to the particular circumstances. It's clear that it wasn't the regulator's intention to provide a set of tick boxes which needed to be completed for a promotion to be made.

I've also borne in mind that the FCA said the following in its July 2018 consultation paper on loan-based ('peer-to-peer') and investment-based crowdfunding platforms:

*“It is our view that it will be unlikely that a platform could argue that it has met its obligations under Principle 2, Principle 6 (PRIN 2.1.1R) and the client's best interests rule (COBS 2.1.1R), if it has not undertaken enough due diligence to satisfy itself on the essential information on which any communication or promotion is based.”*

The FCA also said that:

*“In relation to statements about future commercial success, this should include at least a basic plausibility check. For example, if a borrower says it is going to build a block of flats within 6 months but it does not have the relevant construction permissions, it would seem reasonable for a platform to question the plausibility of the project.”*

*I find C2L should have carried out due diligence on the SPVs before promoting them and arranging investments in them. Specifically, enough due diligence to satisfy itself on the essential information on which the promotions were based. This is a reasonable interpretation of its responsibilities under the FCA principles and COBS rules that I have set out above to ensure it was acting in Mr T's best interests when arranging his investment - as well as generally carrying on its business with due skill, care and diligence.*

*There was a director link between C2L and the third party company (TPC) who had responsibility for the ongoing management of the properties held by the SPVs. The TPC has been subject to a supervisory notice by the regulator due to its conduct in its role when managing the properties and use of client funds. I'm satisfied C2L would have had awareness of the situation relating to the completion of property purchases for the SPVs and the arrangement for renting and collecting payments. So it follows I'm persuaded C2L would have known about the issues the regulator has reported on regarding the actions of the TPC, specifically in relation to how investor funds were being used.*

*Whilst I accept the specific details the regulator uncovered may not have become apparent until later, I'm satisfied at least some of them would have been at the time of investment due to C2L's close links with the TPC. This is relevant when considering whether C2L carried out the kind of due diligence I'd expect it to have and fairly promoted and arranged the investments.*

*I've considered whether Prosper Capital would have had awareness that the proposed investment model would not be followed at the time of arranging Mr T's investment. C2L should have been satisfied that that the opportunity Mr T was investing in was viable. This would have required it to undertake due diligence to satisfy itself it would be acting in Mr T's best interests to allow him to complete the investments.*

*I also acknowledge the fact the director of C2L, was also the director of the SPV and the TPC – essentially this was the same individual holding multiple roles and integral to the operation of the investment opportunity. In my view, this does support a finding that the irregularity occurred when arranging as C2L would have been aware that the transaction to purchase a property wasn't fully viable and it was not definite that Mr T's funds would continue to be used for the purpose intended and in the way he was led to believe they would be as part of the arrangements.*

*The links between the parties to the transaction (as described above) mean, in my view, C2L would have had awareness of the viability of the opportunities it was arranging. Where C2L arranged for Mr T to commit funds, if there was any doubt that the funds would not be applied and continue to be applied as intended to purchase and hold properties under an SPV, it should have acted to prevent the risk of Mr T incurring a loss because of this. I'm not saying C2L was aware (at the time of arranging) of the precise irregularities that would occur – but rather it should have through its due diligence recognised that the prospect of issues occurring meant that it wouldn't be acting in Mr T's best interests by allowing him to commit funds.*

*Even if due diligence wouldn't have revealed the precise irregularities with the investment scheme, I'm of the view C2L likely knowingly knew that it was making arrangements for Mr T in an investment that was of poor quality and/or had awareness that the money being taken had a risk of being misappropriated. Allowing the arrangement to proceed in this situation, would be a failing to meet its obligations to Mr T - particularly by not acting in his best interests.*

*My finding is that C2L failed to meet its obligations to act in his best interest when arranging this investment for Mr T. C2L shouldn't have arranged an investment for Mr T if there was an uncertainty about how the funds would be appropriated or doubts around how client funds would be used. I find Prosper Capital is responsible for this as it happened in the course of arranging by C2L, which it was authorised to do under the AR agreement. As such, Prosper Capital needs to put things right for him."*

Mr T responded to say he accepts the provisional decision, and to confirm he is happy to transfer the shares in the relevant SPV to Prosper Capital upon payment.

Prosper Capital responded and provided further submissions. In summary it said:

- Mr T purchased shares in the SPV and was entered into the register of members as a shareholder. The records it has obtained from the liquidator show it is clear that the shares in the company were properly issued.
- The accounts file at Companies House show the SPV as holding a fixed asset at the value of the property and C2L represented to Prosper Capital that the property had been purchased – and investors were receiving regular income through dividends.
- Prosper Capital and investors were being mis-led by the director of C2L who was using loan note money to fool investors into believing that the property had been purchased by the SPV and rented out to a tenant. This fraud does not appear to have been picked up by the independent accountants, who prepared the accounts showing the property as an asset of the SPV.
- The checks carried out by Prosper Capital to verify that the share purchase monies had been appropriately applied were reasonable, and its systems were based on FCA guidance and its monitoring of C2L was reviewed by the FCA's Supervision team in February 2020.
- The sole director of TPC and C2L had run his estate agency business for more than 20 years and was directly regulated by the FCA through the TPC and it had no reason to suspect that the accounts and representations made to it were false. However, the fraud was not detected and C2L committed the fraud at the same time that it was arranging for investors to acquire shares. It was therefore acting in its capacity as Prosper Capital's appointed representative when it carried out the fraud on investors even as it was hiding the truth from it.

### **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 considered the further submission Prosper Capital made in response to my provisional decision.

I note the points made about the share register, the information held on Companies House, the accountants not picking up on the irregularities and the checks Prosper Capital carried out on C2L.

It isn't in dispute that the shares were registered to Mr T or that the SPV was set up indicating to hold an asset, but this doesn't mean there were no failings in the arrangements made by C2L. The key point here is that C2L was making arrangements for Mr T to invest in something that was of poor quality and/or it had awareness that the money being taken had a risk of being misappropriated. And in doing this it was failing to act in his best interests.

While I accept that it is apparent Prosper Capital was unaware of the irregularities being carried out, I don't find this means I need to alter the findings I set out in my provisional decision. I reiterate my finding that C2L failed to meet its obligations to act in Mr T's best interest when arranging this investment, and I find Prosper Capital is responsible for this as it happened in the course of arranging by C2L, which it was authorised to do under the AR agreement.

As I haven't found reason to change the findings I set out, Prosper Capital needs to compensate Mr T.

## **Putting things right**

In assessing what would be fair compensation, I consider that my aim should be to put Mr T as close to the position he would probably now be in if he hadn't invested in the SPV for Property P.

I think Mr T would have invested differently. It's not possible to say precisely what he would have done, but I'm satisfied that what I have set out below is fair in the circumstances of this complaint. I think Prosper Capital does need to do something to put things right. I'm satisfied Mr T wouldn't have gone ahead with this investment, so he should have his full capital returned. This is in line with his requested resolution when making his complaint.

I've considered whether Mr T ought to receive a return or interest on this money, but in the specific circumstances of this complaint I don't award any additional return. I say this because I'm satisfied that Mr T would likely have looked for other investment opportunities to invest at the time – that would also present a higher risk. So, I consider there was an equal chance that Mr T may have lost some or all of his investment anyway. I acknowledge that he might also have made a return. But without the benefit of hindsight, it simply isn't possible for me to fairly establish what return Mr T would likely have made. Also, my understanding is, despite the uncertainty with the property purchase, Mr T has still received some returns from the money he committed in the form of dividends. So overall, I don't think in this case it would be fair to pay him anything further.

To put things right, I direct Prosper Capital to refund the original capital Mr T invested in the SPV that was due to purchase Property P – which I understand was £4,500.

Mr T has agreed for Prosper Capital to take ownership of the shares he holds in the SPV. This should be arranged, so that it receives any proceeds the liquidator may distribute in relation to these assets as part of C2L's insolvency.

Alternatively, if this isn't possible Prosper Capital may request an undertaking from Mr T to request that he repays any amount he may receive from the shares in the future.

## **My final decision**

I uphold the complaint and require Prosper Capital LLP to pay the amount set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 19 March 2026.

Daniel Little  
**Ombudsman**