

## The complaint

A company, which I'll refer to as 'S', complains that Starling Bank Limited ('Starling') won't reimburse it for a payment made by its director that resulted in the loss of funds to an authorised push payment ('APP') scam.

Miss W, who is S's director, brings the complaint on S's behalf with the assistance of a professional representative. For ease, I will refer to S or Miss W within this decision.

## What happened

The circumstances that led to this complaint are well known to all parties and have been set out in detail by the Investigator within their view. Because of this, I won't repeat them in full here.

But in brief, in October 2022, S made a payment for £40,000 for what it believed to be a genuine investment opportunity in a company I'll refer to as 'V'. In February 2023, S was successfully able to withdraw £2,500 but said when it came to withdrawing the full amount, it became aware that V's accounts had been frozen. S was then subsequently informed that V was under investigation.

S raised a scam claim and complaint with Starling in January 2025. It considered the matter but said it required more time to make a decision due to on-going investigations by the Financial Conduct Authority ('FCA').

S brought the matter to our Service. One of our Investigators looked into things and upheld the complaint. Our Investigator considered R3 (1) (c) of the Lending Standards Board ('LSB') Contingent Reimbursement Model Code ('CRM Code'), which he said Starling sought to rely on. He acknowledged there was an on-going FCA investigation into V, but he was satisfied there was sufficient evidence available for Starling to reach a conclusion about whether S should be reimbursed under the CRM Code. He didn't think the outcome of the FCA investigation was likely to have an impact on that decision.

Following this, our Investigator considered the payment S made under the CRM Code. He was satisfied S had fallen victim to an APP scam and concluded S had a reasonable basis for belief when making the payment. He also considered whether Starling gave an effective warning when S made the payment but, overall, didn't think a more specific investment scam warning would've revealed the fraud at the time. He added that he didn't think it had been established that S had ignored an effective warning. Our Investigator concluded Starling ought to reimburse S the money it lost to the scam.

S accepted our Investigator's view, but Starling didn't agree and asked for the matter to be reviewed by an ombudsman.

I issued a provisional decision on this case on 29 January 2026, not upholding the complaint. In summary, I didn't think the evidence showed S had suffered a loss – I was minded to find that it was Miss W who had. I explained why I was persuaded, on balance, that the spending on S's account was for the purposes of Miss W's own personal gain, rather

than for any business-related activity. It followed that I didn't think Starling could fairly be held responsible – Starling didn't have a customer relationship in respect of Miss W making a payment from S's account for a personal investment.

Starling responded to my provisional decision and said it had nothing further to add.

S responded to my provisional decision and didn't agree with the outcome. In summary, S reiterated that at the time the £40,000 payment was made, the intention was for S to place company funds into a short-term interest-bearing investment with V. It has said that the funds were earmarked for a new-build buy-to-let apartment, but that due to a construction delay the funds were temporarily placed in a short-term investment to earn interest.

S maintains the business account advanced the funds, that the funds were business funds - earmarked for business purposes and that the accounting treatment is consistent with that of a business investment.

In response to specific points within my provisional findings, S has said the receipt of the investment return to Miss W's personal account was simply an administrative decision and did not modify the fact this was a business investment.

S, in its response has also provided a letter from the company's accountant. In brief (and not limited to), the accountant comments that the £40,000 was a company investment. The letter states that following the loss and the uncertainty surrounding the recovery, the amount was classified in the company's accounts as an "other debtor" and not an "investment". It adds that the classification was an accounting treatment only and does not reflect personal ownership or personal use of the funds.

### **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.

In my provisional decision I explained the following:

*"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 was good industry practice at the time.*

*Having done so, I'm not currently intending to uphold this complaint. I'm not persuaded, based on everything I've seen and been told, that Starling is liable to refund the payment made from S's account. I know this is not the outcome S is hoping for so I will now go on to explain my reasons why.*

*Our Investigator within his view set out why he thought the current evidence was enough to satisfy him that S had fallen victim to an APP scam. Based on everything our service has seen and been told, I'm satisfied, on the balance of probabilities, that the money that was sent to V was not used for its intended purpose. The evidence seen suggests that S wasn't involved in a failed investment but a scam.*

*For the avoidance of doubt, this decision is in relation to the payment that left S's business account. In these circumstances, S is the eligible complainant. As the director, Miss W can represent S, but personally she is considered a separate legal entity, distinct from S.*

*It isn't in dispute that Miss W authorised the payment from S's business account that is now*

*in dispute. So, the starting position here is that Starling ought to have followed the instructions it was provided with and processed the payment.*

*I've acknowledged above, that on balance, I'm persuaded S made the payment as a result of falling victim to an APP scam, which has resulted in the loss of a significant amount of money. But what needs to be determined is whether Starling should reasonably be held liable for the amount that was lost to the scam.*

*In considering this point, I first need to determine whether the loss was sustained by S. I could not reasonably expect Starling to reimburse a financial loss incurred by a third party that is not its customer.*

*As a result, I've thought very carefully about what Miss W has told us in this regard. Based on everything I've seen, I'm persuaded that it's more likely than not that the money being paid from S's account was for a personal investment being made by Miss W. I'm not currently persuaded Miss W has provided evidence that fairly and reasonably demonstrates that the investment was being made on behalf of S.*

*Our Investigator reached out to S to ask for further information to help consider this point. Firstly, I'd like to acknowledge what Miss W has told us about the investment – that the intention was to invest funds in V to earn interest, which would contribute towards a larger deposit for the purchase of another buy-to-let rental property and, therefore was a business investment. Unfortunately, despite Miss W chasing receipt of a contract relating to the investment this wasn't received from V. The absence of a contract unfortunately doesn't support what's been said about this being a business investment.*

*Where the evidence is incomplete, inconclusive, or contradictory, I must make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.*

*I've carefully considered the chat messages S has provided of its contact with V. In doing so, I'm persuaded these appear more personal in nature – I note when discussing the payment there was mention of the payment potentially being flagged by the bank. It was at this point reference was made to S – that Miss W was going to attempt the payment from this account as it was a business account which the bank was used to bigger numbers coming in and out. Miss W added that if this didn't work, she'd transfer the funds to her personal account and do four smaller payments. With this in mind, I think this suggests the payment being sent from the business account, more likely than not, was a factor to enable the payment to be processed without being stopped by the bank as opposed to it being sent from S's account as it was for a business investment.*

*I can see from the chat messages that Miss W did inform V of the business account name, but this appears to have been more to make it aware that the funds from S's account related to Miss W's investment. From what I've seen, the communication doesn't suggest that the investment was talked about in a business capacity but in more of a personal capacity.*

*I'm further mindful that the successful withdrawal of £2,500 in February 2023 was paid into Miss W's personal account and not paid to S. When keeping in mind what Miss W has told us about the investment and its intention – I'm not currently persuaded this is consistent with that intention. I'm persuaded that had this been the intention for the funds, that the withdrawal, more likely than not would've been paid into S's business account.*

*I do acknowledge what I've been told in relation to the withdrawn funds being paid into Miss W's personal account – that she regularly gives and takes director's loans from S. But with all the factors considered together, I'm minded to find that on balance this further*

*indicates that the funds paid towards the investment with V was most likely a directors loan – which Miss W used towards a personal investment.*

*When requesting further information, we enquired about information shown on S's unaudited financial statements from the year ended 30 October 2023, where it references £40,000 under 'other debtors'. Comments have been provided from S's accountant, which said the £40,000 is shown as a debtor on the balance sheet and is further detailed as an 'other debtor' as it would not be classified as a trade debtor. The comments add that at the time the accounts were filed, Miss W (as S's director) was aware she'd unfortunately been scammed and was hoping for these funds to be returned which is why the amount is recorded as an 'other debtor'.*

*I'd like to assure Miss W that I've thought carefully about everything I've been told on this aspect. There has been no suggestion that the £40,000 ought to have been recorded as a 'trade debtor' on S's balance sheet. As from what I understand from the definition of 'trade debtor' this would not be applicable. Similarly, when thinking about the definition of 'other debtors' and the fact that the £40,000 is recorded under this on S's account statements - I think indicates the funds were a director's loan. This is consistent with what's been shared with us about Miss W regularly giving and taking director's loans.*

*When taking all the factors into account, I'm currently minded to find that the information suggests it is more likely than not that the investment was a personal one. I'm persuaded the £40,000 payment made from S's account to V was in keeping with Miss W taking a director's loan that was used for a personal investment in V.*

*It follows, that I'm not currently satisfied there is clear evidence to show that the funds paid to V was used for S's business purposes.*

*I appreciate the funds were sent from S's business account and so was S's asset. A limited company's assets belong to the company itself, not the owner or the shareholder. When considering that, and based on what I've seen, I'm satisfied that, on balance, the subsequent spending on S's account was for the purposes of Miss W's own personal gain, rather than for any business-related activity.*

*And that has consequences for S's complaint about Starling.*

*While S may be out of pocket because of Miss W's loss, that is not a direct loss. Broadly speaking there are two potential scenarios in relation to the debt created by the spending on S's business account.*

*First, that this was, in effect, S lending its money to Miss W personally. If Miss W had borrowed money in this way from S for personal gain, then she would be liable to repay that debt to S. And in this situation S can't fairly be considered to have suffered a loss, as it is still owed the money by Miss W as the debtor in these circumstances.*

*The second potential scenario is that by spending on S's account in this way, S was discharging some debt owed to Miss W. Be that a dividend payment, wages or similar. But in this situation, again, S hasn't suffered a loss. The debt has been discharged, and Miss W was provided with what she was owed (which she then paid out).*

*Unfortunately, while Miss W then lost the funds she paid out, as a consequence of the scam, S has not suffered a loss – Miss W has, which is not the same thing. Rather, S loaned funds to Miss W, meaning Miss W now owes that money to S (or instead it discharged a debt owed to Miss W).*

*It therefore follows that there is no loss on S's part for which Starling could fairly be held responsible. And Starling did not have a customer relationship in respect of Miss W making a payment from S's account for a personal investment.*

*Overall, on balance, I don't think the fair and reasonable outcome here is to tell Starling it needs to do more. Whichever approach I take to the spending on S's account, I'm currently not persuaded that S itself has suffered a loss. So even if I were to conclude that there had been a clear and obvious failing by Starling in its handling of matters (which, for clarity I haven't considered), it wouldn't be fair and reasonable for me to ask it to do more.*

*I do understand that this is not the outcome Miss W would have hoped for, and I don't underestimate her strength of feeling and why she is looking to recoup the loss. That said, my role here is to assess Starling's liability. Having done so, I'm currently not minded to find it fair to direct Starling to reimburse S".*

Starling had nothing further to add following my provisional decision and so, I will turn my attention to S's comments.

I appreciate S taking the time to respond to my provisional decision, but having carefully considered its further submissions, I'm afraid my findings remain unchanged.

I'd like to assure S that I've carefully considered all the available evidence – including the further information provided in response to my provisional decision. I note S says the fact the payment was made directly from the company's business account is consistent with S being the investing party and the entity bearing the risk at the point the funds left the account. But within my provisional decision I've already set out my reasons for not agreeing with that argument. When thinking about the specific circumstances here – with all the factor's considered together, I find on balance, that a reasonable interpretation of the evidence indicates that the funds paid towards the investment with V was more likely than not a director's loan – which Miss W used towards a personal investment.

I further note S has commented (in relation to not receiving a contract - despite requests), that it would be unfair to resolve ambiguity to the detriment of S. It adds that the evidence referenced within the provisional decision does not provide safe grounds to conclude this was a personal investment.

I'd like to assure S that I have not looked to resolve ambiguity to its detriment. Where evidence is incomplete, inconclusive or contradictory, I reach my decision about the merits of the complaint on the balance of probabilities – in other words, what I consider is more likely than not to have happened in the light of the available evidence and the wider circumstances.

I find my conclusions to be a reasonable interpretation of the evidence. Whilst I don't dispute what S's accountant has shared – that the long-term purpose of the funds was to invest in another property, this in and of itself doesn't automatically demonstrate that the investment of £40,000 to V was made for business purposes and not a personal one made by Miss W.

Further, whilst it has been put to me that the recording of the £40,000 as an "other debtor" in the company's accounts was a pragmatic accounting treatment once it became apparent that the funds were unlikely to be returned promptly due to the scam, I cannot safely say that this sufficiently explains why a 'debt' was owed. Whilst I accept that this might have been a pragmatic accounting treatment, again this factor in and of itself does not sufficiently evidence that the funds were used for a business investment. Indeed, if the investment were made for business purposes, it's not clear why another party would become its debtor as a result.

As I've previously explained, given what had been shared about Miss W regularly giving and taking director's loans – I find a reasonable interpretation of the evidence is that the recording on the company accounts as an "other debtor", alongside the returns withdrawn having been credited to Miss W's personal account are consistent with the funds being a director's loan, which Miss W used for a personal investment with V. Even, in acknowledging that Miss W's long-term plan was to use any returns for business purposes – towards the purchase of another buy-to-let property, this didn't prevent the funds being used in the meantime for a personal investment.

Having carefully considered all the available evidence, while I know this will not be the outcome S is hoping for, it remains the case that I'm not satisfied there is clear evidence to show, it is more likely than not, that the funds paid to V was used for S's business purposes.

For the reasons set out within this decision and my provisional decision, it follows that I don't think Starling needs to do more here. Whichever approach I take to the spending on S's account, I'm not persuaded that S itself has suffered a loss. So even if I were to conclude that there had been a clear and obvious failing by Starling in its handling of matters (which, for clarity I haven't considered), it wouldn't be fair and reasonable for me to ask it to do more.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 24 March 2026.

Staci Rowland  
**Ombudsman**