DRN-6256418

The complaint

H, a limited company, complains that Starling Bank Limited ('Starling') hasn't refunded the money it believes it lost to an authorised push payment ('APP') scam.

What happened

The circumstances of the complaint are well-known to both parties. So, I don't intend to set these out in detail here. However, I'll provide a brief summary of what's happened.

In June 2023, H entered into a "*Rent-to-Rent Agreement*" for £17,500 with a business, which I'll refer to as 'Company S'. The investment contract said Company S would use H's funds towards the costs involved in renting a specific property and sub-letting it to a social housing provider. H was due to receive a monthly return of £650 for a period of 48 months.

On 26 July 2023, H sent a single payment of £17,500 to Company S. In October 2023, H began receiving its monthly return of £650.

Satisfied with how the initial investment was performing, H made a second investment and sent £15,250 to Company S on 12 February 2024. H was due to receive a monthly return of £665 for a period of 36 months. H began receiving the monthly return of £665 in May 2024.

H made a final investment with Company S in April 2024 and sent £60,400 to a firm of solicitors (the solicitor) on 13 June 2024. The solicitor passed the funds to Company S a few days later. H was due to receive a monthly return of £2,680 for a period of 36 months. H began receiving the monthly return of £2,680 in September 2024.

In total, H received £29,125 from its investments with Company S. However, in January 2025 the directors of Company S were arrested as part of a police investigation. Since then, H has received no further returns. And, in July 2025, Company S entered compulsory liquidation.

Believing it had been the victim of an APP scam, H raised a scam claim with Starling in March 2025 and asked it to reimburse H's outstanding loss of £64,015. Starling didn't reimburse H. Instead, Starling said it needed to wait for the outcome of the police investigation before making a reimbursement decision.

Unhappy with Starling's response, H made a complaint in July 2025. Starling reiterated its view that it couldn't make a reimbursement decision until the police investigation had concluded. However, it did pay H £100 compensation for some poor customer service.

Unhappy with Starling's response, H referred its complaint to this service. Our Investigator considered the complaint and thought it should be upheld. They were satisfied that H had, *most likely*, been the victim of an APP scam. Our Investigator recommended Starling reimburse H's outstanding loss, along with 8% simple interest from the date of their view until the date of settlement.

H accepted our Investigator's findings, but Starling didn't agree. In summary, Starling said:

- it was premature to conclude Company S was a scam when there was an ongoing police investigation into it;
- it considered that Company S wasn't a scam, rather it was an unregulated, but genuine, investment which ultimately failed;
- it was required to process H's payments in accordance with the relevant regulations and the terms and conditions of H's account;
- the disputed payments weren't suspicious, and so Starling had no reason to refuse to make them;
- intervention wouldn't have identified that Company S might have been a scam, or prevented the payments being made;
- the final investment payment was sent to a genuine firm of solicitors who may have been acting for H at the time of the payment; and
- H hadn't carried out appropriate due diligence before entering into a high-risk investment with Company S, meaning H was responsible for its own loss.

As an informal agreement couldn't be reached, the complaint was passed to me to decide.

Starling has been provided with a detailed summary, setting out why Company S was, more likely than not, a scam. And Starling's arguments for why H and other investors shouldn't be reimbursed have been answered, in detail, in a recent final decision on a separate complaint. And, as I agreed with the outcome our Investigator had reached on H's complaint, I wrote to Starling earlier this month and asked it to reconsider.

Starling declined to informally resolve H's complaint. However, it didn't provide any further submissions for me to consider. So, I'm proceeding to issue my 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.

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 have been good industry practice at the time.

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

It's not in dispute that H made the disputed payments. So, the payments were authorised and under the Payment Services Regulations, the starting position here is that H is responsible for the subsequent loss, despite the payments being made as the result of an alleged scam. However, that's not the end of the story.

I'm very aware that Company S is in compulsory liquidation and the Official Receiver's investigation is ongoing, as is an active police investigation. There may be circumstances and cases where it's appropriate to wait for the outcome of external investigations. But that isn't necessarily so in every case, as it may be possible to reach conclusions on the main issues on the basis of evidence already available. And it may be that the external investigations or proceedings aren't looking at quite the same issues or doing so in the most helpful way.

In order to determine H's complaint, I have to ask myself whether, on the balance of probabilities, the available evidence indicates that it's more likely than not that H was the victim of a scam rather than a failed investment. But I wouldn't proceed to that determination if I consider fairness to the parties demands that I delay doing so.

I'm aware that H first raised this situation with Starling in March 2025 and I need to bear in mind that this service exists for the purpose of resolving complaints quickly and with minimum formality. With that in mind, I don't think delaying giving H an answer for an unspecified length of time would be appropriate unless truly justified. And, as a general rule, I'd not be inclined to think it fair to the parties to a complaint to put off my decision unless, bearing in mind the evidence already available to me, a postponement is likely to help significantly when it comes to deciding the issues.

I'm mindful that investigations by the Official Receiver and police might result in some recoveries for Company S's investors – including H. So, in order to avoid the risk of double recovery, I think Starling would be able to take, if it wishes, an assignment of the rights to all future distributions to H under those processes in respect of these "investments" before paying anything I might award H on this complaint.

For the reasons I'll discuss further below, I don't think it's necessary to wait for the outcome of the external investigations for me to fairly reach a decision on whether Starling should reimburse H's loss. I'm satisfied that there is sufficient evidence already available to determine this complaint.

At the time of H's payments to Company S and the solicitor, Starling was signed up to the Lending Standards Board's Contingent Reimbursement Model ('CRM') Code. The CRM Code required firms to reimburse customers who'd been the victims of APP scams in all but a limited number of circumstances.

For the CRM Code to apply to H's circumstances, I need to be reasonably satisfied that it's more likely than not that its payments were made for a fraudulent purpose – i.e., H was the victim of an APP scam, and the funds were criminally obtained by Company S.

The relevant question I must ask in this case is whether H transferred funds to another person (or company as is the case here) for what it believed was a legitimate purpose, but which was in fact fraudulent. The threshold for establishing fraud is a high one and to fairly uphold H's complaint I need to be satisfied that it is more likely – and not just equally as likely – that it was the victim of fraud.

For the reasons I'll discuss further below, I think Company S was, most likely, a scam. I don't consider H's final payment going to the solicitor (and not directly to Company S) prevents the CRM Code from applying to that payment. And, I'm not persuaded Starling has demonstrated that any of the exceptions to reimbursement under the CRM Code apply. As a result, I think H is entitled to reimbursement of its outstanding loss. I'll explain why.

Why I think Company S was, more likely than not, a scam

This service has already provided Starling with a detailed explanation for why we think Company S was most likely a scam. Whilst each individual point may not be enough on its own to satisfy the test for what an APP scam is, I'm satisfied that when those points are considered collectively, there is enough evidence to suggest Company S intended to scam its investors (including H) and wasn't a genuine investment opportunity that was simply mis-sold.

I don't intend to set those reasons out again, as Starling hasn't addressed those in its response to our Investigator's view. Instead, I've set out below what I consider to be the most persuasive pieces of evidence which I've relied on when concluding Company S was, on a balance of probabilities, a scam at the time of H's payments.

Company S claimed to be a genuine social housing investment opportunity. It told investors (like H) it would use their funds to rent a specific property from a landlord, refurbish and furnish the property and then sub-let the property to a social housing provider at a profit. Investors were told that if anything was to happen to Company S, its agreements with both the landlord and relevant social housing provider would be rewritten into the investor's name, providing a guaranteed return to the investor.

However, Company S sold investments where it had no agreements in place to rent the properties from the landlords. It follows that Company S had no agreements in place to sub-let those properties to a social housing provider. As a result, those rent-to-rent agreements were very misleading and weren't backed by the security measures investors were led to believe were in place.

Company S also sold investments in properties that weren't built (one of which wasn't even under construction). So, Company S couldn't have received a profit from sub-letting those properties from which it could pay investors' returns. Other properties weren't intended to be leased out by the landlord – those properties were intended to be sold. And other properties were clearly unsuitable to be used for social housing.

Company S did have a relationship with a social housing provider and was receiving a regular income. However, the legitimate income didn't increase in parallel to the investment capital Company S received or the number of units it claimed to be selling. Through its existing knowledge of sub-letting properties to a social housing provider, Company S would've also known that the returns it was guaranteeing to investors weren't achievable.

A large amount of investors' funds were passed on to another business ('Company C'), which this service believes was most likely a scam. The involvement of Company C wasn't disclosed to Company S's investors, and this wasn't how investors were told their funds would be used.

Company S claims to be an innocent investor in Company C. However, through its experience working in the social housing industry, Company S would've known that the returns Company C was offering were unrealistic and too good to be true. Despite this, Company S sent approximately two thirds of investors' funds to Company C.

It's hard to believe that a genuine firm wouldn't have carried out due diligence on the properties it thought it was investing in via another company. Had it done so, the concerns set out above would've been identified. I think this demonstrates more than just negligence on Company S's behalf and suggests it was aware Company C wasn't offering a legitimate investment opportunity.

Company S was able to pay approximately £6,000,000 in returns to investors. Having reviewed Company S's bank statements, the returns paid to investors are 50% more than any potentially genuine income it received, despite the directors also withdrawing around £1,700,000 from Company S's accounts. This strongly suggests the returns it was paying to investors (like H) was other investors' funds (not legitimately earned profit) which is indicative of a Ponzi scheme.

I accept there is evidence which demonstrates Company S did undertake some legitimate activities, including carrying out work similar to what Company S led H to believe its funds would be used towards. Company S's bank statements do indicate that it was making payments which appear consistent with the line of work it claimed to be engaged in. And, H did, for a time, receive some returns from Company S – as did other investors.

However, it's very concerning that Company S's potentially genuine payments activity didn't increase in line with the scale of investment it was receiving. Despite receiving over £20,000,000 in investment capital, Company S appears to have used less than £3,000,000 (around 15%) towards genuine activity, suggesting Company S wasn't using investors' funds for the purpose in which they were received.

It's a key feature of sophisticated investment scams that business activity is seen to be taking place, along with investors receiving returns. This adds plausibility to the scam and increases the believability that the scheme is a genuine investment opportunity. It also reduces the detectability of the fraud and helps encourage investors to deposit funds and recommend the scheme to other investors.

An investment opportunity which has the appearance of being genuine does make investigations into such matters less straightforward. However, this doesn't prevent me from being able to reach a fair and reasonable conclusion as to whether it's more likely than not that something is a scam.

The test I must apply, when considering H's complaint, is whether the evidence shows, on a balance of probability, that Company S set out to scam H. Contrary to the legitimate activity taking place and returns being paid to investors (including H), I'm satisfied that the evidence available demonstrates Company S was, most likely, operating a fraudulent scheme and not just an unregulated high-risk investment as Starling has claimed. I think H was induced into the investments through dishonest deception and, as a result, I'm persuaded the CRM Code definition of an APP scam has been met.

Why the payment to the solicitor doesn't prevent the CRM Code applying in H's circumstances

The funds for H's third investment with Company S were paid to the solicitor, who in turn passed the funds to Company S. Starling believes the solicitor may have been acting for H when that payment was made and, as the solicitor performed its role in the transaction, this means that the payment to the solicitor was a genuine payment (even if Company S was a scam).

I've seen no evidence to suggest H entered into a client relationship with the solicitor. And H's contract with Company S specifically said funds would be requested from H by the solicitor on behalf of Company S. As a result, I think the solicitor was, more likely than not, acting for and on behalf of Company S when H invested with Company S.

I accept that H's contract with Company S said the solicitor would act on H's behalf *if* the agreement was breached. However, I'm not persuaded that demonstrates the solicitor was acting on behalf of H when the disputed payment was made, which is the relevant date here. I think it's clear from the contract that any representation of H by the solicitor would only happen if and when the agreement had been breached by Company S.

Once the contract between H and Company S had been signed by both parties and the funds had been sent to the solicitor, there was no provision within the contract to allow H to withdraw from the agreement. And, once the solicitor was in possession of H's funds, they were simply transferred to Company S's own bank account. So, as soon as H had made the disputed payment, I'm persuaded the funds were held on account by the solicitor on behalf of its client – which was Company S – until the funds were passed on to Company S.

There's nothing to suggest the solicitor had any independent judgement on how the funds should be used. The solicitor appears to have been merely a conduit for moving funds from H to Company S. As a result, I think the funds were out of H's control as soon as the disputed payment was made and so the use of an intermediary here doesn't prevent the CRM Code from applying to H's complaint.

Why I think H should be entitled to reimbursement under the CRM Code

As I've established the CRM Code is a relevant consideration for this complaint, I've gone on to consider whether Starling can fairly refuse reimbursement.

Starling has argued that it couldn't have prevented H's payments to Company S or the solicitor, and that it was under an obligation to process H's payments. So, Starling doesn't think it would be fair to hold it responsible for H's loss. I appreciate that it's highly unlikely that H could've been persuaded not to go ahead with its investments with Company S. So, I can understand why Starling doesn't think it should be held responsible for a loss it couldn't reasonably have prevented.

However, that's not the applicable test in this complaint. Being unable to prevent a loss isn't a valid exception to reimbursement under the CRM Code. And to deny H's claim, Starling needs to be able to demonstrate that at least one of the relevant exceptions to reimbursement, as set out in the CRM Code, applies.

Starling could refuse reimbursement if it can demonstrate that H didn't have a reasonable basis for believing Company S was legitimate at the time the payments were made. Starling doesn't think H had a reasonable basis for belief (despite also arguing that Company S was a legitimate investment opportunity). So, I've thought about the circumstances leading up to H's investments with Company S.

H's directors have explained that they saw a Company S advert on social media. I accept social media isn't the most reliable source for investment opportunities. However, many genuine investments are promoted this way.

H's directors researched Company S online, viewing its website and social media profiles, finding no adverse information. H's directors also checked reviews of Company S on a well-known online review platform where other investors had left positive reviews of Company S and confirmed receipt of returns as expected.

At the time of H's first investment with Company S, there was no publicly available information to suggest it wasn't a genuine investment opportunity. H's directors took steps to verify that it was a safe investment, which identified no cause for concern. As a result, I'm satisfied H had a reasonable basis for believing Company S was a legitimate enterprise when it first invested in July 2023.

H received returns as expected, which prompted further investments in February 2024 and April 2024. Given the initial investment appeared to be going as planned, I'm satisfied that H still had a reasonable basis for belief when those further investments were made.

The CRM Code says Starling can also refuse to reimburse H if it failed to take appropriate steps in response to an "*Effective Warning*", which is defined within the CRM Code. And importantly, when assessing whether it can establish this, Starling must consider whether it would have had a "*material effect on preventing the APP scam*".

Starling hasn't specifically said that it provided H with an "*Effective Warning*" when the disputed payments were made, but it has said that warnings were provided. I've considered the warnings Starling gave H. These were brief, generic and not relevant to H's circumstances. So, I'm not satisfied H has ignored an "*Effective Warning*" as defined by the CRM Code. And I'm satisfied this exception to reimbursement doesn't apply in this case.

Putting things right

I'm not persuaded any exceptions to reimbursement apply in H's circumstances. As a result, I think Starling should now reimburse H's loss under the principles of the CRM Code.

To resolve the complaint, Starling should:

- refund H's outstanding loss of £64,015; and
- pay 8% simple interest per annum on the refund from 9 February 2026 (the date of our Investigator's view upholding the complaint) until the date of settlement.

Starling has paid £100 compensation for the poor customer service H experienced after complaining to Starling. I'm satisfied that's a fair amount in recognition of the impact of the poor customer service. So, I'm not asking Starling to increase that offer of compensation.

My final decision

For the reasons explained above, my final decision is that I uphold this complaint and direct Starling Bank Limited to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask H and H to accept or reject my decision before 21 May 2026.

Liam Davies
Ombudsman