DRN-6256461

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.

The complaint was referred to this service with the help of a professional representative. However, for ease of reading, I'll refer to H throughout my decision.

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 July 2024, H entered into a "*Rent-to-Rent Agreement*" for £15,555 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 £715 for a period of 36 months.

On 5 July 2024, H sent a single payment of £15,555 to a firm of solicitors ('the solicitor'). The funds were subsequently passed on to Company S a few days later.

H received four payments of £715 from Company S between October 2024 and January 2025. 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 May 2025 and asked it to reimburse H's outstanding loss of £12,695. Starling considered the claim but decided not to refund H. Starling said H's payment wasn't an APP scam because it went to a genuine firm of solicitors that was, at the time of the payment, regulated by the Solicitors Regulation Authority ('SRA').

Unhappy with Starling's response, H made a complaint in July 2025. Starling reiterated its view that H's loss didn't result from an APP scam, which meant it considered it didn't need to reimburse H.

Unhappy with Starling's response, H referred its complaint to this service. Our Investigator considered the complaint and initially didn't think it should be upheld. They weren't persuaded that H had been the victim of a scam, which meant they didn't think Starling could fairly be held responsible for reimbursing H.

However, after reconsidering the evidence, along with H's further submissions, our Investigator was satisfied that H's payment had, *most likely*, been made because of an APP scam. Our Investigator issued a second view, recommending 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 revised 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 payment in accordance with the relevant regulations and the terms and conditions of H's account;
- the disputed payment wasn't suspicious, and so Starling had no reason to refuse to make it;
- intervention wouldn't have identified that Company S might have been a scam, or prevented the payment being made as the funds were being 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 payment. So, the payment was authorised and under the Payment Services Regulations, the starting position here is that H is responsible for the subsequent loss, despite the payment 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 May 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 this "investment" 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 payment to Company S (via 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 payment was 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 payment going to the solicitor (and not directly to Company S) prevents the CRM Code from applying to H's claim. 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 payment.

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 investment 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

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 payment to Company S (via the solicitor), and that it was under an obligation to process H's payment. 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 the investment 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 payment was 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 investment with Company S in July 2024.

H's director has explained that he 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.

Furthermore, H's director has explained that he carried out online research on Company S before investing. He was able to confirm that Company S had been registered with Companies House for over four years, during which time it had also been filing accounts.

At the time of H's investment, other investors in Company S had been getting returns as promised and were leaving positive reviews of their experience with Company S. So, there was no information publicly available to suggest it wasn't a genuine investment opportunity.

H received the "investment" contract via the solicitor which was, at the time, regulated by the SRA. And, H had to pay the investment funds to the solicitor which added plausibility to the investment and reassurance that everything was above board.

I think all these elements made the investment appear to be genuine. So, I'm satisfied H had a reasonable basis for believing Company S was a legitimate enterprise at the time of the investment.

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 payment was made, but it has said that warnings were provided. I've considered the warnings Starling gave H and have noted that these were brief, generic and not relevant to H's circumstances. As a result, I'm not satisfied H has ignored an "*Effective Warning*" as defined by the CRM Code. So, 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 £12,695; and
- pay 8% simple interest per annum on the refund from 23 January 2026 (the date of our Investigator's view upholding the complaint) until the date of settlement.

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 to accept or reject my decision before 21 May 2026.

Liam Davies
Ombudsman