

## The complaint

Mr A complains that Starling Bank Limited won't refund the money he lost when he was the victim of what he feels was a scam.

## What happened

In early 2022, Mr A was looking to get some work done to the gardens at his property and so listed the work he wanted doing on some job listings websites. He was then contacted by a builder who said they were interested in doing the work. Mr A and the builder discussed the work to be done, the builder provided a quote and Mr A agreed for the work to go ahead.

The builder started the work and completed some of the work agreed in the quote. And Mr A made three payments to the builder from his Starling account over the next few weeks, to pay for materials. I've set out the payments Mr A made below:

Date	Amount	Details
10 April 2022	£3,500	Not disputed
13 April 2022	£3,500	Disputed
22 April 2022	£3,000	Disputed

Mr A says the work he was paying for with the first payment on 10 April 2022 was completed, and so he's not disputing this payment. But he says little further work was completed as the builder then started not showing up to the property, and not working for very long when he did show up. He says the builder became difficult to contact and, after they didn't show up to the property for a number of weeks, the builder ultimately stopped replying to him. Mr A then reported the payments he had made to Starling as a scam and asked it to refund the money he had lost.

Starling investigated but said that, as the builder had done a reasonable amount of work, it felt this was a civil dispute between Mr A and the builder. So it didn't agree to refund the payments Mr A had made. Mr A wasn't satisfied with Starling's response, so referred a complaint to our service.

One of our investigators looked at the case. They said they felt this was a civil dispute between Mr A and the builder, as the evidence suggested the builder was operating as a genuine business at the time and hadn't intended to scam Mr A. So they didn't think Starling should be responsible for the money Mr A had lost or should have to refund the payments he had made. Mr A didn't agree with our investigator, so the complaint has been passed to me.

## 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.

Having done so, I don't think it would be fair to require Starling to refund the money Mr A has lost. I'll explain why below.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

Starling is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This requires firms to reimburse customers who have been the victim of certain types of scams, in all but a limited number of circumstances. But customers are only covered by the code where they have been the victim of a scam.

The CRM code says that it doesn't apply to private civil disputes, such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way or the customer is otherwise dissatisfied with the supplier. So in order to determine whether Starling should refund the money Mr A lost under the CRM code, I need to consider whether he has been the victim of a scam – or, in other words, whether the builder set out from the beginning with the intent to defraud him.

The builder started the work at Mr A's property and appears to have worked there for a number of weeks. When speaking to Starling, Mr A suggested the builder had done around 40% of the total work that was agreed. And from Mr A's descriptions and photos of the work that was done, it appears the builder did a significant amount of work, and more than just destructive work – including digging out the existing front and rear gardens, installing fencing and laying some concrete and patio tiles.

I'd usually expect a scammer to do as little work as possible in order to get the maximum possible profit in the shortest period of time. So the builder here did more work than I'd expect from a scammer who never intended to complete the work.

The reasons the builder gave Mr A for the delays and for why payments needed to be made, such as bad weather, the global pandemic and to order materials, also seem plausible and I don't think these necessarily suggest the builder was trying to scam him.

The bank the payments were sent to has also told us that it hadn't received any other scam reports against the builder's account around this time. And from what I've seen of the activity on the account the money was sent to, it appears to have been run as I would expect a legitimate account to have been.

Mr A has mentioned that the builder started work at the property later than the agreed start date, was difficult to get in touch with, often turned up late and would only work for a short period of time before leaving the property again. But while this may suggest the builder was unprofessional or not working to the standards Mr A expected, I don't think it necessarily suggests they intended to scam him.

I appreciate how Mr A feels about this case, and that the work at his property was left unfinished and he has had to pay for another builder to finish the work. And some of the information he has sent us does suggest the builder wasn't acting legitimately. But I must make a decision on what I think is most likely to have happened. And, based on the evidence I've seen, I think it's more likely the builder here was attempting to operate as a legitimate business at the time and that other factors ultimately meant the building work wasn't completed. I don't think the builder set out from the beginning with the intent to defraud Mr A, or that Mr A has been the victim of a scam here.

So I don't think the payments Mr A made to the builder are covered under the CRM code, or that Starling should be required to refund the money he lost.

I sympathise with the position Mr A has found himself in, and I'm in no way saying he did anything wrong or that he doesn't have a legitimate grievance against the builder. But, for the reasons I've explained above, I don't think it would be fair to hold Starling responsible for the money he's lost.

### **My final decision**

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 6 October 2023.

Alan Millward  
**Ombudsman**