

The complaint

X complains that Lloyds Bank PLC ('Lloyds') declined to refund him £12,000 which he said he lost as a result of a scam.

What happened

X was looking to have some work done to his home. He sought a number of quotes for the work which ranged between £10,000 and £18,000. A relative recommended a builder who I'll call 'Mr A'. X said that Mr A contacted him directly after Dr G's relative had told him he was looking to get work completed on his property. X said he introduced himself as a property developer and said he could help with his project. Mr A said he had access to a skilled worker who could help deliver the project. X said Mr A showed him pictures and brochures and came up with a plan for the project. The work agreed was to install a new driveway – X said he initially wanted three quarters of the work completed but that Mr A recommended that it would be more cost effective to get it all upgraded now, rather than three quarters now and the rest later. After several visits and telephone calls, a verbal quote of £12,000 was agreed and so X sent two payments to Mr A of £6,000 in October 2021.

X said he had not been provided with the service he paid for and could not get in touch with the builder again. He said that the work was supposed to be carried out the following week after the payment was made and no work was carried out, nor were any materials provided. He said they communicated face to face and over the phone, so he did not have anything in writing. He said he reported the matter to Action Fraud.

X complained to Lloyds who did not uphold his complaint. They felt that the situation amounted to a private civil dispute, and so was not covered for refund under the Contingent Reimbursement Model ('CRM code') and there was nothing else that they ought to have done with regards to these payments.

Unhappy with their response, X brought his complaint to our service. X told us that he felt Lloyds had not done enough to protect him from the scam or recover the funds after the scam had occurred. One of our investigators looked into what had happened and did not recommend that Dr G's complaint be upheld. In summary, they agreed with Lloyds that it was most likely a private civil dispute and so would not be covered for refund under the Contingent Reimbursement Model ('CRM code').

X remained dissatisfied. He said this case represented a blatant scam and our investigator's conclusion that it appeared to be a private civil dispute was completely irrational. As no agreement could be reached, the case was passed to me to decide.

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 considering what's fair and reasonable, I am required to take into account relevant law and regulations; regulator's rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

Where evidence is unclear or in dispute I reach my findings on the balance of probabilities – in other words on what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

I'm sorry to hear that X has lost money. Under the CRM Code, which Lloyds is signatory to, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam (except in limited circumstances). But the CRM Code is quite explicit that it does not apply to all push payments. It says:

“This Code does not apply to: (b) private civil disputes such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier.”

So the CRM Code isn't a general protection for consumers. Instead, it only applies in very specific circumstances – where the customer has been the victim of a scam. In order for me to conclude that X has been the victim of a scam, I'd have to be satisfied that the third party deliberately tricked X into making payments for services which he had no intention of providing at the time he made his payments. I'm not persuaded I can say that is most likely what happened here, I'll explain why.

From what I have seen, I do think it was fair for Lloyds to conclude that this situation was most likely a private civil dispute rather than an authorised push payment scam. X has been unable to produce any evidence which corroborates his testimony that he was the victim of a scam. I have not seen any evidence of what work was agreed to be carried out, correspondence, written quotes. I've also not seen anything to corroborate his testimony that the work agreed to was not carried out. On the other hand, whilst I cannot go into much detail here for data protection reasons, I can say that the receiving account appeared to be operating in line with expectations with no other fraud reports against it. I have reviewed the receiving account bank statements from the relevant period of time and it appears that the account was being used for payments in line with the type of work that X says he contracted Mr A to complete. I have not seen any evidence to suggest there have been other fraud reports made against Mr A. So when considering all of this, and the evidence that I have been able to review, I do think that it was fair to say that this amounted to a private civil dispute – as the evidence I have reviewed makes it appear that there may have been a disagreement about the project, but that on balance I am not persuaded that I have seen enough to conclude that Mr A deliberately tricked X into making payments for services which he had no intention of supplying. As such, I do not think that Lloyds are responsible for reimbursing X because of any obligation under the CRM code.

X has my sympathies as I can see that he is not happy with what has happened, but overall I am not satisfied that there has been a bank error in this case.

My final decision

For the reasons stated above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 19 December 2023.

Katherine Jones
Ombudsman