

The complaint

Mr H complains that he was a victim of a scam after Tesco Personal Finance PLC trading as Tesco Bank approved payments from his account.

What happened

In 2021 Mr H appointed a firm of builders to carry out work on a property they'd purchased. Mr H has explained that around 2 May 2021 he made a payment from his Tesco Bank account to the builder for £10,000 as a deposit. Work began following the completion of the property purchase. Mr H made further payments of £6,000 on 5 May 2021, £10,000 on 31 May 2021, £5,000 on 2 June 2021 and £2,250 on 21 August 2021. In total, Mr H made payments totalling £33,250 to the builder from his Tesco Bank account. Other payments were made to the builder from different banks. Mr H has explained that at no point did Tesco Bank contact him to ask questions or carry out further checks about the payments he was making.

Mr H has told us the builder failed to complete works in line with the agreed schedule and was often absent from the site. In addition, Mr H has explained that costs increased from the original quotations provided by the builder and that he was asked to transfer additional sums. Ultimately, work slowed then stopped entirely and Mr H contacted Tesco Bank in early November 2021 to advise he had been the victim of a scam.

Tesco Bank investigated Mr H's case but didn't think he'd been the victim of a scam and said the dispute related to his dissatisfaction with the works carried out by the builder. Tesco Bank went on to issue a final response to Mr H's complaint on 10 January 2022 and paid him £50 for delays and poor service when investigating his concerns. But no refund of the disputed payments was offered by Tesco Bank.

An investigator at this service looked at Mr H's complaint. They looked at the available information and agreed Mr H appeared to have been the victim of a scammer. The investigator also thought Tesco Bank should've done more to check the initial payment was genuine with Mr H, like asking probing questions in an attempt to prevent financial harm. But the investigator thought Mr H would most likely have still proceeded with the payments even if Tesco Bank had warned him about the risks of fraud as, at that point, he wasn't aware of the scam and thought the builder was legitimate.

Mr H asked to appeal and said that if Tesco Bank had contacted him with a warning about potential scams he wouldn't have proceeded. Mr H also said the absence of any questions by Tesco Bank led him to believe the recipient was legitimate. Mr H also said references and testimonials for the builder were received shortly after the first payment was made and that he'd researched them as far as possible before deciding whether to proceed. As Mr H has asked to appeal, his complaint has been passed to me to make a 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.

I've been reasonably brief in setting out the background above as all parties broadly agree concerning the overall timeline for Mr H's complaint. Mr H made an initial payment of £10,000 on 2 May 2021 and followed up with several more in the months that followed. The final payment made from Mr H's Tesco Bank account was made on 21 August 2021 for £2,250. Whilst Tesco Bank has said it feels this is a civil matter between Mr H and the builder, I think it's more likely than not that Mr H has been the victim of a scam. And it's clear Mr H has lost a substantial sum as whilst works were started, they weren't completed and he's had to subsequently pay for it to be finished out by other professionals.

Like our investigator, I think the first payment of £10,000 from Mr H's account should've caused Tesco Bank to pick it up and contact him to ask questions about the transaction. As I understand it, a payment of this amount wasn't something Mr H usually made so should've put Tesco Bank on notice that there was a risk he could've been the victim of fraud. And I think there were grounds for Tesco Bank to have asked Mr H questions about the other payments that he went on to make. So as a starting point, I agree with Mr H that Tesco Bank should've done more when he instructed substantial payments to the scammer.

However, like the investigator, I've considered what Mr H would've done differently if Tesco Bank had held payments and asked him questions before proceeding. In response to the investigator Mr H said that if Tesco Bank had asked probing questions about the instruction he wouldn't have made the first payment which was a deposit. But Mr H has added that he checked the builder's details via Companies House and it appeared the business was genuine. Mr H also obtained testimonials regarding the builder, albeit shortly after the deposit was paid, and went on to transfer the remaining payments to them with the understanding it was being legitimately used for building expenses. I think it's more likely than not that Mr H would've told Tesco Bank he thought the payments were legitimate which would've satisfied concerns about being a victim of scammers.

Mr H has also provided us with copies of messages between him and the scammer. I can see there is a substantial amount of back and forth between Mr H and the scammer. And the messages show payments continued to be made to the scammer as late as the middle of October 2021, when the messages say £1,000 was paid from an account with a different bank. So whilst we can see with hindsight that Mr H appears to have been the victim of a scam, I think it's fair to say that as late as October 2021 he was still of the view that the builder was operating a legitimate business and that works would be completed at his property.

I appreciate that a short time later Mr H contacted Tesco Bank to raise a fraud investigation. But I'm satisfied that during the period when payments were being made to scammer from the Tesco Bank account, Mr H was of the view that they were legitimately required to complete building work at his property. And in those circumstances, I think it's more likely than not that Mr H would've still proceeded with the transactions, even if payments were held so Tesco Bank could ask security questions.

When Mr H raised the payments with Tesco Bank it contacted the scammer's bank to raise a fraud case. Our investigator has obtained information directly from the third party bank and it shows Tesco Bank did raise the issue as claimed. But by the time the fraud concerns were raised and an investigation started, there were no funds available in the scammer's account to return to Mr H. I can understand why Mr H finds the position to be unsatisfactory, but as Tesco Bank was unable to recover the disputed funds, I haven't been persuaded its acted unfairly by declining to issue a refund.

Mr H has told us that Tesco Bank failed to respond to his complaint in line with the standard time limits. I agree with Mr H that the service provided appears slow at times and I can understand how frustrating that must've been, given the background of his complaint. But, for the reasons I've given above, I'm unable to tell Tesco Bank to refund the disputed payments. And I'm satisfied the £50 payment Tesco Bank has made in terms of the service provided and inconvenience caused is fair in all the circumstances. As I'm satisfied Tesco Bank dealt with Mr H's case fairly overall, I'm not telling it to take any further action.

My final decision

My decision is that Tesco Personal Finance PLC trading as Tesco Bank has already paid a settlement that is fair and reasonable in all the circumstances.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 10 August 2023.

Marco Manente
Ombudsman