

The complaint

Mr B is unhappy Starling Bank Limited (“Starling”), won’t reimburse him for money he lost when he loaned money to a friend who then didn’t pay him back.

What happened

The details of this case are well-known to both parties, so I don’t need to repeat them at length here.

Mr B explained that just before New Year’s Eve, he loaned £30 to a friend who said he needed to cover bills. He later saw on social media that his friend went out to celebrate the new year. He thinks his friend lied about what the money was for. His friend hasn’t repaid the £30 and, in Mr B’s view, he never intended to repay it.

He told Starling what had happened, but it didn’t agree to refund him. It didn’t think this was a scam. It thought it was just a dispute between friends.

Mr B wasn’t happy with that and so he referred the complaint to this service. In short, the Investigator didn’t uphold the complaint. They initially considered the matter was a private civil dispute between Mr B and his friend – and so the CRM Code didn’t apply to the payment Mr B had made.

Mr B responded advising he still considered his friend had set out to scam him and never had any intention of repaying him.

Our Investigator responded advising that he considered the payment Mr B had made, didn’t meet the definition of an ‘Authorised Push Payment’ (‘APP’) scam as set out by the CRM Code and so the payment wasn’t covered by the CRM Code. The Investigator considered there was insufficient evidence to show Mr B’s friend acted fraudulently. Nor were they persuaded that there was evidence to clearly show the friend didn’t initially intend to use the funds on a night out with Mr B or that he never intended to repay Mr B at the time of the borrowing. And while the relationship broke down shortly after, with the friend advising he wouldn’t pay Mr B at all, the Investigator concluded this wasn’t enough to say that the friend never intended to repay Mr B at the time of borrowing.

Mr B didn’t agree and so the complaint has been passed to me to consider and come to a 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.

I'm sorry to hear of what's happened to Mr B. I can see he clearly feels strongly that he was deceived by his then friend. But having thought carefully about what happened, I don't uphold Mr B's complaint. I do appreciate how disappointing this will be for him, but I can't say that Starling is liable to reimburse him under the CRM Code or otherwise. I'll explain why.

When considering what is fair and reasonable in this case, I've also thought about the Lending Standards Board's voluntary CRM Code, which Starling has signed up to and which was in force at the time Mr B made the payment.

I've thought about if the CRM code applies in the circumstances of the payment Mr B made. But the CRM Code is quite explicit that it doesn't apply to all authorised push payments. It says:

"DS1(2) The terms below, which have initial capital letters in the text of the Code, are defined as follows:

(a) APP Scam

Authorised Push Payment scam, that is, a transfer of funds executed across Faster Payments, CHAPS or an internal book transfer, authorised by a Customer in accordance with regulation 67 of the PSRs, where:

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.*

And DS2 of the CRM Code also goes on to state:

"DS2(2) 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;" **

*Subsections (a) and (c) of DS2(2) have been omitted as they are not relevant to this complaint.

The crux of this complaint centres on Mr B agreeing to send his friend £30. This was seemingly to cover bills. And Mr B seemingly thought he and his friend were to go out to celebrate New Year's Eve.

The test that I must apply here – is whether the definition of an APP scam has been met – such that the CRM Code applies. The definition as set out within the CRM Code – as detailed above is whether *"... The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent."*

Mr B says his friend lied about why he wanted to borrow the money. It's impossible to know what his friend's intentions were here. Whether Mr B's friend utilised that money for bills, or not, will never be known. Nor will it be known whether the friend also intended to use that money to go out with Mr B for New Years Eve and then had a change of heart. There's no evidence of any agreement as to what the purpose of the £30 was and so, regrettably, there's really nothing to support Mr B's argument that his friend was dishonest here.

The fact that his friend is reluctant to repay him doesn't particularly support his argument either. The relationship between them has clearly broken down, but that's not a reliable indicator as to his friend's intentions at the time he borrowed the money.

Overall, I'm satisfied Starling doesn't need to refund him under the CRM Code.

Since I've found that this doesn't meet the definition of an APP scam, it also didn't need to take any steps to recover Mr B's money from his friend's account.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 25 February 2025

Matthew Horner

Ombudsman