

The complaint

Mr and Ms W complain that Lloyds Bank Plc won't reimburse them after they believe they fell victim to a scam.

What happened

On 24 June 2024 I issued my provisional decision on this complaint. I wanted to give both parties a chance to provide any more evidence and arguments before I issued my final decision. That provisional decision forms part of this final decision and is copied below.

Mr and Ms W have explained that they had purchased a new home and were looking to complete a full refurbishment. They looked online at sites providing details of local tradesmen and contacted one, which I'll refer to as 'K' for a quote.

Mr W met with an individual, who I'll refer to as Mr T, who was understood to be the owner of K. A quote was provided for the work required, totalling around £75,000 for labour and basic building supplies, but not to include fixtures and fittings. Mr W has explained it seemed a reasonable quote and he therefore enlisted K's services.

Mr T advised that he had a number of trade accounts and, rather than Mr and Ms W purchasing fixtures and fittings directly with stores, he could do so at a discounted rate for them, which Mr and Ms W agreed to.

Mr W made a first payment to K of around £23,000 by bank transfer. This payment was stopped by Lloyds for further questioning. During his phone call with Lloyds, Mr W provided honest answers to the advisor's questions – he explained that the payment was for building work on his property, that the reason for the high deposit was that the builders had told him prices would be going up shortly in the new year, that he found the company on a trader's website and the online reviews seemed positive. The Lloyds bank advisor warned Mr W about the risks of sending money via faster payment and asked Mr W to confirm he accepted the risk. They also asked Mr W to confirm he believes the firm to be genuine, based on his face-to-face discussions, which he also confirmed to be the case. On this basis, the payment was released by Lloyds.

The following day, Mr W attempted to make a further payment to K for around £10,000. This was again stopped by Lloyds for questioning. Mr W explained the payment was for bathroom supplies. Lloyds raised its concerns over the value of the payments being made and asked if his builders firm accepted other payment forms such as debit card, which he confirmed it didn't. Mr W confirmed that work hadn't started on the property yet and as a result, the advisor suggested to wait until work had commenced before sending further funds – which Mr W agreed to. This payment was therefore stopped.

Mr W attempted to make the payment again a few days later and again it was stopped by Lloyds. Mr W confirmed the work was starting that day and again advised this payment was for plumbing materials. The advisor confirmed they wouldn't be comfortable processing the payment until the work had started and to wait until the workers were at his home – which Mr W agreed to do.

Two days later, Mr W again attempted to make the payment and had a conversation with Lloyds. This time he was able to confirm the work on his house had started and that he was happy therefore to send further funds. On this basis his payment was released.

Over the next few weeks, Mr and Ms W made a further six payments to the builder. All of these were stopped by Lloyds for questioning. Each time Mr W was honest about what the payment was for and how the request for payment was received. Each time Lloyds covered some more general scam scenarios as well as builder scams before the payments were released.

Mr W continued to make further payments to the building firm for the next four months, in total making around 40 further payments. One of these was also stopped by Lloyds for questioning, during which Mr W confirmed building work was progressing well, but otherwise all payments went through without further intervention.

In total Mr and Ms W sent £298,617.32 to K over a period of five months. Around £35,000 of this was for fixtures and fittings that Mr T advised it could order through trade accounts. The remaining additional costs were for works that weren't initially quoted for, such as re-roofing their home, re-wiring, rendering and the removal of Japanese knotweed.

Mr W has explained that when works began, it appeared everything was progressing as expected. He's explained that for the first couple of months, sub-contractors came to his home and completed mostly demolition work – but that he had expected this in order for progress to be made. Following this, some re-building took place. Mr W has explained that jobs always appeared to be half finished then would stop, but that Mr T always had an explanation for this, suggesting that another piece of work elsewhere was required before jobs could be completed, which seemed reasonable to Mr W. Mr W has also explained that whenever he visited the house, Mr T would arrange for subcontractors to not be present. Despite ordering various fixtures and fittings, Mr W has explained that nothing arrived at his home. However, when he questioned this with Mr T, he was told that this was due to his house being open to the elements due to the removal of the roof, and lack of space from building works and the items were therefore in storage, which again seemed plausible to Mr W.

Towards the end of the payments Mr W made, he's explained the project was behind schedule and he discussed this with Mr T. As Mr W was due to go on holiday, Mr T advised the house would be ready upon his return, which Mr W considered was unrealistic. While away, Mr W could see there was little activity in his home, based on his smart meter usage. He attempted to contact Mr T but has explained his calls were avoided. Upon returning home, Mr W saw his home had been vandalised, with his doors and locks superglued.

Mr W spoke with Mr T, advising he was terminating their contract and wanted a refund. Mr W has said Mr T told him to speak to his lawyers. Since work to his property has stopped, Mr W has explained that he's spoken to a number of subcontractors that worked on his home and found that they didn't receive pay for all the work they completed on Mr W's home, and so walked off the site. Mr W has said he's since found out that three separate teams of electricians worked on his home for this reason.

Mr W has also said that none of the fittings he paid for were ever delivered, and having contacted the suppliers, he's discovered that no orders could be traced. He advised that one trades company also directed Mr W to other individuals who had similar issues with Mr T when he was working under a previous business name. Mr W has said that he has since found a number of other 'victims' of Mr T's previous building firm, with similar stories to Mr W. Mr W has also had independent reports conducted, that have advised that 'it is impossible to correctly ascertain the amount of unfinished work, undelivered costs etc,

however it would appear that the policyholder is out of pocket estimated at around £200,000'. Mr and Ms W also obtained a report from another construction firm to review the roof that had been built on their home. The report confirms 'I can safely say that this is the poorest workmanship I have ever witnessed. Not only is it of poor quality but it is severely dangerous and I can see every possibility of the roof collapsing.'

Mr W has advised he's had to pay again for all work to be remedied, or repaired after it had been left open to the elements from the incomplete roof, and has had to repurchase all items previously ordered through Mr T.

On this basis, Mr and Ms W considered they had fallen victim to a scam and contacted Lloyds to raise a claim. Lloyds looked into what had happened but didn't think it was liable to refund Mr and Ms W. It didn't think it had been established that Mr and Ms W had been the victims of an Authorised Push Payment (APP) scam. Rather it thought this was a private civil dispute between Mr and Ms W, and K.

Mr and Ms W disagreed and so referred the complaint to our service. An investigator considered the complaint. Overall, while he accepted the case was finely balanced, he didn't consider there was sufficient evidence to conclude that K had intended to scam Mr and Ms W from the outset. This was on the basis that some work had been done at their property, and that there were payments on K's account statements that were consistent with a building company. He therefore didn't consider Lloyds was liable to refund the losses Mr and Ms W had incurred.

Mr and Ms W disagreed with the investigator. They've provided a substantive number of points on this matter but to summarise some of the key points for consideration, they've stated that:

- The individual they know as Mr T has concealed previous identities and had they known his previous record of entering compulsory liquidation of a firm, they would have exercised greater caution.*
- They paid for goods that were never ordered or delivered, which they consider demonstrates that K had no intention of procuring materials as agreed.*
- Their conversations with customers of Mr T's previous business demonstrate a 'pattern of deceit' whereby clients are promised materials that did not exist.*

As Mr and Ms W disagreed with the investigator, the complaint has been referred to me for a decision.

What I've provisionally 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 very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focused on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

Lloyds is a signatory of the Lending Standards Board Contingent Reimbursement Model (CRM) Code which requires firms to reimburse customers who have been the victims of authorised push payment (APP) scams in all but a limited number of circumstances. However the Code specifically doesn't apply to civil disputes.

For a payment to be covered by the CRM Code, it must meet the definition of an APP Scam under the CRM Code. In this context, that would require that the very purpose for which K procured the payments was different to what Mr and Ms W believed, due to dishonest deception. This can be difficult to determine, even with the benefit of hindsight and I don't dispute that this is a finely balanced case. However, based on the evidence Mr and Ms W have provided, I'm persuaded it's more than likely that K did intend to scam Mr and Ms W from the outset and that their complaint is therefore covered by the Code. I say this because:

- Having reviewed K's accounts, I can see regular payments were made from this account to other individual's accounts – these individuals being associated with the other failed business Mr W has identified that appears linked to K. There is also currently an application to strike K off the register – but Mr W has also identified a third company that appears to be run by this same circle of associated individuals. I think this demonstrates a clear pattern emerging of an individual setting up a firm, taking money for works not completed or materials not purchased and then dissolving the firm when confronted.*
- Mr W has provided direct messages between himself and a number of other individuals who claim to be victims of this other firm Mr T is associated with. Within the conversations, they have confirmed Mr T to be the 'face' of the company they dealt with also, and have provided similar stories of goods ordered never arriving, and having to re-do work completed. He has also provided conversations with a number of subcontractors who confirmed they hadn't been paid agreed funds for his work as well as other jobs.*
- Mr W has expressed that for every piece of work that was done, further issues were identified that Mr T advised needed resolving, resulting in the cost of the renovation escalating. As previously covered, Mr and Ms W paid £298,617.32 and yet from the photos and videos Mr W has provided, it's clear the house was not close to completion still. It's a known tactic of scam builders to complete some work, in order to request further funds far outweighing any work completed, which seems to be the case here.*
- While there is some evidence of payments from K's account towards trade related services, I don't think the volume or value of these payments is sufficient to consider this as evidence that K was running a legitimate business, rather than the other possible scenario that limited goods were purchased to continue the illusion of the scam. A significant number of payments were made to other individuals from K's account (as mentioned, these being accounts linked to other businesses where similar scam allegations have been raised). While the payments include references such as 'expenses', from reviewing these third party's statements also, these accounts appear to be run as standard personal accounts, with no indication of said expenses.*
- Mr W has provided conversations with two external companies that he understood K to have placed orders with, neither of which could identify an order in his name.*
- Mr W has tried contacting K via solicitors, but he is untraceable, with letters being returned to sender.*

Lloyds has argued that a service, albeit not a good service, was provided to Mr and Ms W - and referred to the increase generally in building supplies in recent years, which has caused renovation budgets to drastically increase. While I don't dispute this, it's also a known tactic in building scams for work to be done (often mostly destructive as was the case here) in order to 'uncover' further faults that need addressing and obtain further funds from the victim. In this case, it appears the large majority of additional costs wasn't due to an increase in cost of supplies, but a constantly expanding list of works to complete.

For these reasons I'm minded to conclude that Mr and Ms W were victims of a scam and that K's intention from the outset was to procure funds by dishonest deception.

I've therefore gone on to consider Lloyds' obligations to Mr and Ms W under the CRM Code.

The CRM Code

As mentioned, Lloyds is a signatory of the Lending Standards Board Contingent Reimbursement Model (CRM) Code which requires firms to reimburse customers who have been the victims of authorised push payment (APP) scams in all but a limited number of circumstances.

Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that:*

- The customer ignored what the CRM Code refers to as an "Effective Warning" by failing to take appropriate action in response to such an effective warning*
- The customer made payments without having a reasonable basis for believing that: the payee was the person the Customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate*

**Further exceptions outlined in the CRM Code do not apply to this case.*

I've considered whether Mr and Ms W ignored an effective warning, following Lloyds' calls during the scam payments, by failing to take appropriate action in response to such an effective warning. Mr W was honest with Lloyds during all calls that took place, which allowed Lloyds to provide a warning specific to his circumstances. Lloyds provided its concerns with Mr W that he was paying a lot of money up front before works had begun, via an unsecure channel and suggested Mr W wait until works have commenced before proceeding. Mr W did heed this advice each time and cancel the payment as recommended by Lloyds. However, I think Lloyds could've done more during these calls to bring to life what typical builder scams can look like, even where builders do begin works – and signs for Mr W to look out for. I can understand why, given the concerns raised by Lloyds, that Mr W would've felt more secure in continuing payments once the initial risk of builders not commencing works had passed.

In any event, even if the warning Lloyds provided were considered 'effective', when factoring in whether Mr W took appropriate action in response to the warning, I think he did. As mentioned, he waited for work to commence, as advised, before making further payments and had researched K online before proceeding, as Lloyds had recommended. While Lloyds had questioned why Mr W was paying by bank transfer, Mr W had confirmed this was the only option available, which I don't think is unusual in reality for the building trade. Considering the advice Mr W was given and the steps he took, I don't think there's any information Lloyds provided that Mr W didn't reasonably act upon. Ultimately, I simply don't think it was evident at this point that Mr W was falling victim to a scam to either party – and

reimbursement under the CRM Code isn't dependent on a firm being able to prevent a scam from occurring.

I've also considered whether Mr and Ms W had a reasonable basis for believing the payments they were making were legitimate. Based on how this scam unfolded, I think they did. Mr W has explained how Mr T gave the illusion that work was progressing, by completing demolition work, then starting multiple projects, albeit not completing them. I can understand why, particularly to someone outside of the building trade, it would appear that work was progressing as expected, and why some jobs may have to halt until others were completed. I've thought about the lack of any fixtures being delivered and again, I think Mr W acted reasonably by questioning this and ultimately trusting the answer he was given. Mr T told him that his house was not weathertight, and that there was limited space due to building work, so his items were being stored, which made logical sense to Mr W. I think this is a reasonable explanation to have been provided and I can understand why it reassured Mr W. I also think it was reasonable for Mr W to believe that goods were being ordered early on to avoid new year price increases as this is a relatively standard industry practice.

While I appreciate the scam was ongoing for some time, having looked at each stage of the scam, I don't think there's an moment that can be pinpointed to where Mr and Ms W ought to have had concerns. Even in hindsight Lloyds has suggested there is insufficient evidence to suggest this is a scam – and I can therefore understand why Mr and Ms W did not identify this as it was unfolding.

Lastly, I've considered whether, as Mr and Ms W did have some work carried out on their home, there should be a deduction from redress due to avoid over-compensating their losses. However, from the reports provided and photo and video evidence provided by Mr and Ms W I don't think this would be fair. It's clear that there was also significant damage and poorly completed work done to Mr and Ms W's home which has required significant funding to put right, as well as repurchasing all fixtures previously ordered. I therefore haven't concluded that they received any overall benefit from the work completed.

My provisional decision

My provisional decision is that I uphold Mr and Ms W's complaint against Lloyds Bank PLC and for Lloyds Bank PLC to:

- *Refund Mr and Ms W's losses from the scam, totalling £298,617.32*
- *Apply 8% simple interest to this amount, from the date Lloyds Bank PLC declined Mr and Ms W's claim under the CRM Code, until the date of settlement.*

Mr and Ms W confirmed they had no further comments to add following my provisional decision. Lloyds has not provided a response.

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.

As neither party provided any further comments following my provisional decision, I remain of the view that Lloyds should refund Mr and Ms W's losses, as set out in my provisional decision.

My final decision

My final decision is that I uphold Mr and Ms W's complaint against Lloyds Bank PLC and I

direct it to:

- Refund Mr and Ms W's losses from the scam, totalling £298,617.32
- Apply 8% simple interest to this amount, from the date Lloyds Bank PLC declined Mr and Ms W's claim under the CRM Code, until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Ms W to accept or reject my decision before 20 August 2024.

Kirsty Upton
Ombudsman