

## **The complaint**

Mr S is unhappy that he's not received a refund following a complaint to his bank Lloyds Bank PLC.

## **What happened**

Mr S employed the services of J – a builder. He says he knew him to be a genuine builder who lived in the local village, with his details passed on by a neighbour. They agreed for various works to be completed on Mr S's property.

Mr S made 14 payments to J, between April and December 2023. Mr S has provided details of the full schedule of payments, pictures, videos of the works carried out, and messages between them. Ultimately the relationship between them broke down. Mr S has been left with both incomplete and unsatisfactory works and additional costs that J was due to cover.

Mr S raised concerns with Lloyds, about the builder, saying he had several companies dating back a number of years that had all been dissolved. Mr S says he was charged VAT by the builder, but says he had conversations with Action Fraud and HMRC and they have all but confirmed J is not VAT registered. And this is evidence of him operating a scam. He says the money he paid specifically as a VAT charge, should be returned to him from J's account.

One of our investigators looked into things. She explained Mr S would only be entitled to a refund under the Contingent Reimbursement Model (CRM) Code if it was established that this was an Authorised Push Payment (APP) scam. She wasn't satisfied this was an APP scam. She said, although the building work wasn't completed to the agreed standard, a substantial part of the building work was completed. Therefore, she felt Mr S hadn't been the victim of a scam, rather this was a dispute about the quality and unfinished building work.

She was satisfied that Mr S intended to pay J to do various building work and that was also the builder's intention, given the amount of work that was completed. Whilst she agreed Mr S had been left out of pocket overall, she didn't think this was as the result of an APP scam.

She added that the builder came recommended by his neighbour- suggesting work was completed to a satisfactory standard and completed in that instance. Showing he was an established builder in the trade. And a previous history of failed or closed businesses was not enough to say the builder had set out to defraud Mr S from the outset. She reviewed the builders account and although she couldn't reveal the details of this, it added to her finding that Mr S hadn't been the victim of a scam.

The investigator considered Mr S's claim that J charged VAT when he wasn't registered to pay it. She concluded that whilst this might have been a misrepresentation and even a fraudulent one, that doesn't change the overall position, that the builder completed a large proportion of the work. Which was ultimately what the payments were for.

She said her finding didn't mean Mr S didn't have cause for dispute with the builder. Just that it didn't amount to a scam, that meant Lloyds ought to refund his losses in this instance, Mr S didn't accept the investigators findings. In summary he says he'd been the victim of a VAT scam. And he hadn't asked Lloyds to refund him, he wanted the payments returned from J (the builder). He'd wanted Lloyds and the receiving bank to investigate J. He said had it done this properly, it would have shown that J wasn't paying VAT and therefore those funds would be returned to him.

Lloyds issued a final response in October 2024. It said when it spoke to Mr S in June 2024, it explained it wouldn't be considering the matter as a scam claim. It continued to consider the matter a civil dispute. And it said Mr S should raise any concerns about VAT with HMRC. Mr S also raised a complaint against the bank that held J's account. That is the subject of a different complaint.

Mr S asked for an ombudsman to review the complaint and it's 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.

I'll start by saying, I apologise for the delays in getting a final answer to Mr S. I'm also sorry to hear that this situation has severely impacted Mr S's finances.

Mr S has raised several different responses to the investigators view. I've read all of these, but I will focus on addressing those salient to the outcome of the complaint and those which our service can consider.

I'm sorry that Mr S has lost out as a result of what's happened here. I can see that Mr S has suffered greatly and incurred additional costs, as well as the initial outlay for the work he contracted J to undertake, which he says isn't to a satisfactory standard. But it's my role to consider, whether the bank is responsible for those losses. And unfortunately, I'm not recommending that the bank refund him here. I'll explain why.

The investigator set out a detailed account of events between Mr S and J. And she explained the circumstances under which she could and couldn't recommend that Lloyds refund Mr S's losses. I appreciate Mr S feels his funds should simply be returned from J's account but it's not that simple. I'll explain why.

As Mr S authorised these payments, there are a limited number of circumstances in which Lloyds would be liable to refund him, namely that he's been the victim of an APP scam. The investigator explained why she didn't think Mr S had been the victim of an APP scam. And I agree with her. I'll explain why.

A bank's primary obligation, when it receives a payment instruction from its customer is to carry out that instruction without delay. Even if the bank had taken the step of discussing the payments with Mr S, prior to carrying out his instructions, I find the bank would most likely have had no reasonable grounds on which to prevent Mr S from proceeding to make the payments. I simply don't think either Mr S or the bank would have likely uncovered sufficient cause for concern about J at that point, given how he'd found J, the quote he'd received and how J had come locally recommended.

That leads me to find, that the bank could not reasonably be held liable through any failure to prevent or somehow stop Mr S from making this payment. Having considered this, I find that

outside the provisions of the CRM Code I could not fairly hold the bank liable to reimburse Mr S.

#### CRM code

I'm sorry to have to disappoint Mr S, but I agree with the investigator that this is a civil dispute and therefore not covered by the CRM code. That's not to take away that Mr S hasn't suffered a loss or, that some fraudulent behaviour was underlying J's actions. But not all instances of fraud will be enough to say that a bank is responsible for a consumer's losses. I need to see convincing evidence that Mr S has been the victim of an APP scam and meets the requirements under the CRM code, in order for that to be the case.

I will explain what I consider the CRM Code covers and why I think that. The Scope and Definitions section of the CRM Code details that the CRM Code can only apply to authorised payments meeting the code's definition of an 'APP Scam'.

DS1(2)(a) of the code defines an APP scam as:

#### *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.*

The CRM code also specifically excludes private civil disputes with the following definition.

*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;*

In order for the consumer to have been the victim of an APP scam the consumer must have been deceived about the very purpose for which their payment has been procured.

For there to be '*fraudulent purposes*' (as opposed to legitimate purposes) it would require the test for fraud to be met in relation to the *purposes* for which the payment was procured. That must have been at the time the payment transaction occurred or earlier. It does not follow that fraud at a later date can engage the CRM Code's definition of an APP scam.

Neither would fraud which doesn't speak to the *purpose* of the payment. I take it to follow that there may be situations where false representations were made which could amount to fraud under the Fraud Act, but which don't have the effect of the payment falling within the scope of the definition of an APP Scam set out under the CRM Code.

And, I don't have the power to conduct a criminal investigation into J. Part of what is required here is to establish the intent and state of mind of the person(s) accused of this fraud about the purpose of Mr S's payment.

When considering the evidence produced in support of Mr S's claim of an APP scam, I'm required to reach my findings on a balance of probabilities rather than to the criminal standard. But given the serious nature of the allegations involved I consider that this must involve convincing evidence to lead me to find it more likely than not the underlying purpose was a fraudulent one.

Incomplete work or work to a sub-standard, whilst may have other implications in law, do not in and of itself, mean that Mr S has been the victim of an APP scam and that the bank is liable for his losses as a result.

While I have considered Mr S's claims about J, these do not fundamentally speak to the purpose for which funds were procured. J did ultimately engage in the building work that was contractually agreed, at least to some extent, even if that wasn't finished or was completed to a poor quality or standard. Mr S has other avenues available to him to dispute such issues and that is in part why this is classed as a civil dispute and not an APP scam.

Ultimately J carried out work and appeared to be in the trade of doing so. The recipient bank accounts also support this finding. And so, I'm persuaded here, that the purpose of the payment was not fraudulent.

And any number of possibilities could have occurred, including the breakdown of a relationship between a customer and tradesman. And although I don't doubt the predicament Mr S has been left in, overall, I haven't seen convincing evidence that this came about as the result of an APP scam in order to say the bank ought reasonably to be held liable for his losses.

Mr S has mentioned Police and Trading Standards involvement and if those investigations result in any new or material evidence relevant to Mr S's claim then he can of course raise a new complaint with his bank at the time. But as it stands there is not convincing evidence that the issues Mr S has faced with J are the result of an APP scam where J intended from the outset not to do the work as contracted.

#### Other considerations Mr S has raised

Mr S's other concern is that Lloyds' ought to have acted when he reported the matter. He's said that if Lloyds had carried out an investigation with the receiving bank it would have discovered Mr S was not paying VAT and therefore operating a scam and his funds should be returned, from J's account to his.

As the investigator explained a bank cannot simply return funds from someone else's account. It doesn't have the authority to do this unless a scam has been identified. The Voluntary Best Practice Standards produced by UK Finance sets out standards for sending and receiving firms to follow when processing a claim for an APP scam. This guidance came into force from October 2017. But these only apply where the consumer has been the victim of an APP scam.

And in this instance, I'm satisfied that Lloyds was correct in finding that this was not an APP scam but a civil dispute. And therefore, it didn't need to make attempts to recover Mr S's funds as Mr S believes it should have. And as far as I can see Lloyds didn't contact Starling to raise a scam claim as it had deemed the matter a civil dispute. Whilst Mr S may be frustrated by this and believe it should have done this, I disagree and have found Lloyds actions here reasonable in the circumstances.

Mr S says that he paid VAT on the work completed by J. But J was not registered to pay VAT and therefore this element of the payments was fraudulent. Mr S says he's had it "all but confirmed" that J wasn't VAT registered, although hasn't substantiated that claim with any evidence. But in any event this would be an issue for HRMC not the bank or the ombudsman service. And it does not mean that Mr S should automatically receive a refund for the VAT element of payments he made to J. This forms part of his overall dispute with J and as I've set out above, there may be situations where false representations were made which could amount to fraud under the Fraud Act, but which don't have the effect of the payment falling within the scope of the definition of an APP Scam set out under the CRM Code. If J did charge VAT but did not pay it, that does not result in the overall agreement between the two parties being considered an APP scam.

### **My final decision**

I'm sorry to disappoint Mr S as I know he feels strongly that he's been the victim of a scam but I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 22 October 2025.

Sophia Smith  
**Ombudsman**