

The complaint

Miss W complains that Lloyds Bank PLC ('Lloyds') won't refund money she paid a builder, who hasn't completed the agreed work.

What happened

In March 2023, Miss W wanted a builder to fit a new bathroom, windows and doors. She decided to use a builder (who I'll refer to as L), who had done work for her before. L has a company who I'll refer to as T.

Miss W says L started work on her bathroom but hasn't finished the job. The work that hasn't been completed includes the sink, shower, toilet, cabinet, waste pipe connection and tiling. L also didn't do the windows or the doors. Miss W says L gave her lots of excuses about why he couldn't finish the work.

These are the payments Miss W made from her Lloyds account to T.

Date	Details of transaction	Amount
1.3.2023	Payment to T	£250.00
7.3.2023	Payment to T	£250.00
15.3.2023	Payment to T	£8,000.00
5.4.2023	Payment to T	£740.00
5.4.2023	Refund from T for over payment	£40.00 credit

When L stopped communicating with Miss W, she raised a fraud claim with Lloyds.

Lloyds declined to refund Miss W, saying she has a civil dispute with L. But, Lloyds apologised to Miss W and said the level of customer service she received in calls with them was poor and paid her £200 in compensation.

Miss W wasn't happy with Lloyds' response, so she brought a complaint to our service.

An investigator investigated Miss W's complaint but didn't recommend that Lloyds refund her. The investigator explained that Miss W's complaint wasn't covered by the Lending Standards Board's Contingent Reimbursement Model Code (the CRM Code), so Lloyds weren't responsible for her loss.

Miss W didn't agree with the investigator's opinion and asked for an ombudsman to review the case. Miss W raised the following points for the ombudsman to consider:

- It's not a civil dispute. L took the money and ran.
- T is not operating correctly as a business, for example they haven't filed their accounts on time and there has been a notice to strike off.
- Miss W should be entitled to a refund under the new PSR regulations which came into effect on 7 October 2024.

Having reviewed the case, I gave a different answer to the investigator. So, I issued a provisional decision, giving both Miss W and Lloyds a chance to provide any more evidence they wanted me to consider before I issued a final decision.

My provisional decision

In my provisional decision I said:

Miss W has referred to the new Payment Service Regulator's "APP Scam Reimbursement" (ASR) rules which came into effect 7 October 2024. These rules can't be applied to any payments made prior to 7 October 2024, so I can't refund Miss W under these rules.

Is Miss W entitled to a refund under the CRM Code?

Lloyds have signed up to the 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.

But, the CRM Code does not apply to private civil disputes, for example 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.

The CRM Code defines what is considered an APP scam as, "where the customer transferred funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent".

In order to decide whether the circumstances under which Miss W made her payments meets the definition of an APP scam, I need to consider:

- The purpose of the payment and whether Miss W thought this purpose was legitimate.
- The purpose the recipient had in mind at the time of the payments and whether this was broadly in line with what Miss W understood the purpose to be.
- And, if I decide there was a significant difference in these purposes, whether I'm satisfied that was as a result of dishonest deception.

Miss W was making payments to L for building work to be completed at her property and I haven't seen anything that suggests Miss W didn't think this was a legitimate purpose.

So, I've gone on to consider what purpose L had in mind and whether it was in line with what Miss W thought.

In reaching an answer on what purpose L had in mind, the key information is:

- L had previously completed work for Miss W and she says she had no problems the other times she'd used him, which suggests that he was operating as a builder.
- T has been a UK incorporated company since May 2021. There was a notice to strike off in April 2024, but this was discontinued in May 2024. So, T had been operating as a business for nearly two years prior to Miss W making her first payment.
- We've received information from the receiving bank that I can't share due to data protection issues. But this doesn't suggest that Miss W's funds weren't used for the intended purpose.
- It's possible that T has failed as a business due to mismanagement or a change in circumstances. But failing to file accounts and there being a notice to strike off doesn't show that T or L took Miss W's funds with no intention of doing the work.

I understand that L hasn't completed the work he agreed with Miss W, but that doesn't mean Miss W's payments are covered by the CRM Code. If L is unable to complete the work due to ill health, or his business failing, that doesn't meet the definition of an APP scam.

I haven't seen anything that suggests L took Miss W's money with no intention of doing the work agreed or didn't use the funds for their intended purpose. So, I can't ask Lloyds to refund Miss W under the CRM Code.

Is there any other reason I can ask Lloyds to reimburse Miss W?

I've thought about whether Lloyds could've prevented Miss W's loss when she made the payments.

There is an expectation for Lloyds to be on the lookout for, and to protect its customers from, potentially falling victim to fraud or scams. This includes monitoring accounts and identifying suspicious activity that appears out of character. Where potential fraud is identified, I would expect Lloyds to intervene and attempt to prevent losses for the customer.

I wouldn't have expected Lloyds to have identified a potential risk of fraud for the first two payments or the last payment, based on the size of the payments and the previous activity on the account. But I would've expected Lloyds to have intervened when Miss W made the third payment of £8,000. I say this as the payment was out of character and unusual compared to her previous account activity.

But, just because I think Lloyds should've intervened doesn't mean that I can ask it to refund Miss W. I say this because I don't think Lloyds would've been concerned if they'd asked Miss W questions about the payments she was making. I think Miss W would've told Lloyds that she'd known L for some time and he'd completed small jobs for her in the past with no problems. So I'm not satisfied that Lloyds discussing the payment with Miss W would've identified a potential scam risk or prevented her loss.

The level of customer service Miss W got from Lloyds

Lloyds say Miss W didn't receive the level of service she should've and have paid £200 compensation. They say Miss W was given incorrect information and false expectations during calls with them.

It's important to note, that I am only addressing the calls Miss W had with Lloyds in relation to the first builder as part of this complaint. Miss W raised a separate complaint in relation to

a second builder she employed to complete the work L didn't finish. In that complaint, I dealt with the later calls Miss W had with Lloyds in relation to the second builder.

It's clear from the calls with Lloyds that they were aware of Miss W's vulnerability. In the calls I've listened to, Lloyds required Miss W to repeat the background to the complaint on more than one occasion. This was despite Miss W telling them that she struggled with her memory and having asked them to take notes and share the information when the call was being passed to a different department. I'm also disappointed that when Miss W asked for a complaint to be raised, after Lloyds had given the outcome on her fraud claim, Lloyds deterred Miss W and she had to ask a number of times over a 30 minute call. Ultimately Lloyds did raise a complaint, but I don't think they made this as easy as it should've been, especially considering Miss W's vulnerabilities.

Overall, I'm not satisfied that Lloyds provided a reasonable level of customer service when Miss W called them in relation to the first fraud claim. So, I intend to ask Lloyds to pay Miss W an additional £150 compensation, in addition to the £200 they've already paid.

Responses to my provisional decision

Lloyds responded accepting the provisional decision.

Miss W provided a detailed response to my provisional decision, explaining why she disagreed and providing new evidence. These are the main points she raised:

- Miss W provided copies of T's filed accounts from Companies House and says these show that Miss W's money wasn't put through T's accounting.
- L changed the number of employees associated with T from two, down to one. Miss W says this was so he didn't involve his son and shows that L has falsified information in relation to T.
- L groomed Miss W, he did minimal work in order to get Miss W to part with as much money as possible before disappearing.
- L never measured for the windows and doors and said they were ordered, but they were never supplied.
- L has had three different business addresses, two different business names and used two separate surnames.
- The fact that Miss W can't track down L shows that he is a scammer, as a builder who did poor work would still be traceable.
- If Lloyds should've intervened, then Miss W should be entitled to a refund.
- Miss W's life, and that of her family, have been turned upside down due to the scams she fell victim to. They still have issues with their home including windows that don't close and no glass in the bathroom window.
- Miss W had to ask Lloyds three or four times to raise a complaint and they incorrectly accused her of being in a relationship with L, three or four times in one call.
- Lloyds have not protected her and have treated her extremely poorly.

Miss W was also concerned that not all the calls she had with Lloyds were listened to prior to the provisional decision being issued, and I gave my answer based on assumptions not facts.

I've reviewed the case again, in order to make 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.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've made my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened considering the available evidence.

I'm really sorry to hear about the distress Miss W and her family have experienced as a result of L's actions.

I'd like to assure her that I have carefully considered all of the evidence that she's provided, including her calls with our service. I have also listened to eight calls she had with Lloyds, in relation to this complaint. There are other calls with Lloyds which relate to a separate complaint Miss W raised, and a separate compensation award was made in relation to those calls on that other complaint.

Having carefully considered the new evidence Miss W has provided, I'm still not satisfied that the circumstances under which she made her payments meet the definition of an APP scam, or that her payments are covered by the CRM Code. I'll explain why.

The concerns Miss W has about L and T

The concerns that Miss W has raised in relation to the accounts that T filed, the change in the number of employees and the declared takings, could suggest mismanagement of funds or that the accounts filed aren't accurate. But it doesn't prove what Miss W's funds were used for or that her funds weren't used for their intended purpose – being the overall building work that L was completing. Also, as I explained in my provisional decision, having reviewed the information from the receiving bank, it doesn't persuade me that Miss W has an APP claim.

There are a number of allegations that Miss W has made in relation to a different surname that L may use, other businesses that he's been involved with, and changes in his business address. But, while these may seem unusual and potentially concerning, they don't evidence L's intention when Miss W made her payments.

It's possible that new information could become available following a police investigation into L or T, as their investigation would likely include a forensic review of their finances. It's also likely that a police investigation would provide evidence as to L's intention at the time Miss W made her payments. But we don't have this type of evidence and I can only make my decision on the information we do have.

I understand that Miss W didn't receive the doors and that L told her that they had been ordered. But L may have intended to order the doors but was delayed in doing so for any number of reasons. Not receiving the doors, or L telling her they had been ordered when they hadn't, isn't enough to show Miss W has an APP scam.

Also, the CRM Code is clear that it doesn't apply where a consumer 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.

Overall, I'm not satisfied that Miss W has evidenced that L had a different purpose in mind for the funds when Miss W made her payments, or that they weren't used for their intended

purpose. So, I'm not satisfied that Miss W's payments are covered by the CRM Code and can't ask Lloyds to refund her under it.

Should Lloyds have done more to protect Miss W when she made the payments?

Miss W says Lloyds should've protected her when she made the payments to L. But, I'm not satisfied that intervention by Lloyds would've prevented Miss W from making the payments. I say this as all of the information that Miss W had available at the time she made the payments, suggested that she was dealing with a legitimate builder.

Miss W had used L for jobs previously, although I appreciate that these were just small jobs. And, T was a UK incorporated company and there wasn't anything to suggest that they weren't a legitimate building firm. I wouldn't expect Lloyds to do investigations on L or T, or research them. But, Lloyds should've asked Miss W questions about the purpose of the payment and about L. This might've included how she knew (or found) L, what research she'd done on L and T and whether she'd been given a quote which didn't seem too good to be true. I don't think there was any information that Miss W would've given Lloyds which would've meant they should've stopped her payments.

So, while I think Lloyds should've intervened, I'm not satisfied that intervention would've prevented Miss W's loss.

The customer service that Miss W received from Lloyds

I understand Miss W was upset that Lloyds questioned her as to whether she had a relationship with L, which happened several times on one call. Also, that Lloyds deterred Miss W from raising a complaint when she wasn't happy with the outcome of her fraud claim. Lloyds were aware of Miss W's vulnerabilities and didn't provide the level of customer service they should've, which added to her distress at an already difficult time. Lloyds should've made it easier for her to raise her complaint and kept better notes, so Miss W didn't have to repeat herself. Also, Lloyds should've paid attention to the first time when Miss W told them she wasn't in a relationship with L.

I realise that Miss W has lost quite a lot of money, but poor service doesn't mean that she is entitled to a refund of the payments she made.

Having considered the poor service that Lloyds gave Miss W, I'm satisfied that Lloyds should pay Miss W an additional £150, above the £200 they had already paid her. I'm satisfied this is fair, especially as most of Miss W's distress was caused by L, which Lloyds isn't responsible for.

I know that Miss W might be very disappointed, but I'm not satisfied that I can fairly agree that Lloyds is liable for her loss of funds in relation to the payments she made to L and T – for the reasons given above.

Putting things right

To put things right I require Lloyds Bank PLC to pay Miss W £150 compensation, this is in addition to the £200 they've already paid her.

My final decision

My final decision is that I partially uphold this complaint against Lloyds Bank PLC and require them to compensate Miss W, as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 5 March 2025.

Lisa Lowe
Ombudsman