

## **The complaint**

Mr M complained because Kroo Bank Ltd refused to refund him for transactions which he said he hadn't authorised.

Mr M also complained because Kroo later closed his account. That complaint is being dealt with separately, and this decision is only about the disputed transactions.

## **What happened**

On 12 July 2024, Mr M contacted Kroo by chat. In response to the bot's questions, he said that his card had been stolen or compromised. The bot told Mr M to freeze his card, and asked whether there had been any disputed transactions. Mr M replied yes. Mr M later sent another message saying it must have been 10 July when his card had been stolen, because there were disputed transactions on 11 July.

On 19 July Mr M contacted Kroo for a response. He said he'd been told someone would contact him and he'd get a refund. He hadn't had a call or a refund.

Mr M continued to chase Kroo. On 28 August he wrote saying it was his fourth official complaint. He said Kroo hadn't provided a promised refund or an explanation for the excessive delay and Kroo had treated him disgracefully. He said Kroo had breached its obligations and he said he demanded that Kroo should provide:

- an immediate refund;
- a detailed explanation about why the issue had dragged on so long;
- assurance that steps had been taken to prevent such delays and poor customer service in future; and
- compensation for distress and inconvenience.

On 19 September Kroo sent Mr M its final response to his complaint.

- It accepted that it had failed to provide regular updates about the ongoing investigation, and acknowledged this might have caused Mr M stress and confusion. It apologised and said it upheld this part of Mr M's complaint.
- Kroo didn't uphold the part of Mr M's complaint about how long it had taken to investigate Mr M's dispute. It said some cases were complex. It said it assured Mr M that its team was working diligently to investigate his case.

Mr M wasn't satisfied and contacted this service.

Our investigator asked both Kroo and Mr M for more information.

She asked Mr M for:

- details of which payments Mr M was disputing, for example highlighted on a statement;
- information about the events leading up to his card being lost or stolen;
- where Mr M had been when he believed the card had been lost or stolen;
- where he normally kept his card;
- whether anything else was missing or stolen;

- what was the last genuine payment made before the first disputed payment;
- whether that last genuine payment had been contactless or by chip & PIN;
- how long after the last disputed payment he'd noticed the transactions;
- whether he'd report this to Kroo straightaway;
- whether Mr M had written down or stored his PIN anywhere;
- Whether the PIN was guessable, such as an easy code or a date of birth.

Mr M replied that he'd sent us all this information. He also said Kroo had now closed his account. The investigator arranged for that complaint to be set up as a separate complaint. So that isn't considered as part of this complaint. But we hadn't received any of the requested information about this complaint from Mr M.

The investigator had also asked Kroo for its file. A business's file about disputed transactions needs to include, among other things, specific technical information about the customer's account, every one of the disputed transactions, statements, and customer contact and complaint history, and a detailed explanation for why the business says what it does about the complaint. But Kroo didn't respond, apart from checking that Mr M had authorised us to look at his complaint. The investigator confirmed this the next day, but Kroo still didn't send its file.

The investigator upheld Mr M's complaint, but she said this was based on limited information as Kroo hadn't provided the requested business file. She said that if Kroo replied within the specified timescales for response, she'd review the outcome.

Kroo then sent limited information, but not everything that we'd expect to see for a disputed transaction case.

Mr M wasn't satisfied with the outcome. He said he stressed that it didn't adequately account for the prolonged period of time, extensive effort, and significant distress and inconvenience caused by Kroo. He said he wanted compensation that reflected the seriousness of the situation, including the delay in reimbursing him, and Kroo's failure to provide evidence despite repeated requests for their business file had caused him undue financial and emotional strain.

Mr M's case was referred to me for an ombudsman's decision.

### **My provisional findings**

I issued a provisional decision on this complaint. This was because I'd come to a different conclusion to the investigator. Issuing a provisional decision gave both sides the opportunity to comment on it, by the date set, before I issued a final decision

Before issuing the provisional decision, I considered all the available evidence and arguments to decide what would be fair and reasonable in the circumstances of this complaint.

In my provisional decision, I explained that the problem here was that I didn't have sufficient evidence from either party, which would be essential to reach a decision which would be fair and reasonable in all the circumstances of this case. Neither side had provided the information which had been requested.

It's essential to have all the relevant information in order to consider a case. And here, I just didn't have that. I had no information about the disputed payments – either which ones, and how much they were for, or the circumstances in which they took place. Nor did I have the necessary technical information about them.

As Mr M hadn't proved his loss, or provided essential information, I explained that I was unable to make an award. I said he needed to answer all the questions which the investigator had asked, including information about which transactions he disputes. I set these questions out again, and said that if he did so in full by the date for responses, I would assess all the evidence I had from both sides. I also explained that I might draw adverse inferences from Kroo's failure to provide information, but I wouldn't be able to make an award if Mr M hadn't proved his loss.

### **Responses to my provisional decision**

Kroo didn't reply to my provisional decision by the date set for responses.

Mr M sent two screenshots which he said clearly showed all the fraudulent transactions. He said that the fraudulent transactions occurred on 11 July and he'd reported them to Kroo the following morning. He'd also frozen his card. He said that on the day before the fraudulent transactions, 10 July, he'd been at work and hadn't noticed his card was missing. He normally kept the card in his wallet which was always with him. He said he couldn't remember when the card had been lost but it might have been misplaced the previous day. Nothing else had been stolen but it could have been misplaced the day before. He couldn't recall the last transaction he'd made before the card was stolen. He said that his PIN was secure and not an easy code such as his date of birth. He hadn't written down or stored his PIN anywhere that could have made it accessible to anyone else. Mr M also said that a local shopkeeper had confirmed in writing that some of the disputed transactions debited to Mr M's account didn't exist in the shop's records.

### **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 still do not have all the necessary information. I have considered Mr M's response to my provisional decision. I don't find it persuasive. He hasn't given a convincing account about the circumstances of the lost card, or whether it was misplaced (lost) or stolen. He's said that he doesn't have details of all the disputed transactions because Kroo subsequently closed his account – but he must have known at the time he contacted Kroo to raise the disputed transactions, when his account was still open. I'd also have expected him to remember more about which were his last genuine transactions. And I'm not persuaded by the argument that a local shopkeeper said some of the disputed transactions never went through the shop's records.

Mr M still hasn't provided detailed information about what he disputed, and his account of how his card was lost or stolen isn't persuasive. So he hasn't proved his loss, or provided essential information, and in these circumstances I'm unable to uphold his complaint or make an award.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 11 April 2025.

Belinda Knight

**Ombudsman**