

The complaint

Mr A complains that Kroo Bank Ltd ('Kroo') declined to refund a series of transactions totalling over £15,000 which he says he did not make or otherwise authorise.

What happened

The details of this complaint are well-known by both parties, so I will not go into every detail of what happened here. But in summary, on a date in May 2024, Mr A explained that he was violently assaulted and robbed. The robbers were able to access into his phone, emails and online banking apps with Kroo and three other financial businesses. They also changed the login details for both his email and AppleID. Following on from this, a series of ApplePay transactions to merchants, and transfers to another two accounts held by Mr A were debited from Mr A's Kroo account. Mr A says he did not make or otherwise authorise these transactions. Mr A reported the matter to both the financial businesses and the police.

There were 18 successful transactions and 16 declined transactions. There was also a loan of £10,000 which was applied for with Kroo, which was then received into the account. The money that was sent to another financial business from his Kroo account was spent in high-value merchants. The outstanding loss totals approximately £15,000.

Mr A said he was unhappy that one of the financial businesses was able to stop fraudulent transactions, whilst the other two failed to do so and even now they have accepted it was fraudulent activity, both are pointing the finger at each other as the party responsible for the refund. Mr A explained this had all impacted his ability to sleep, or focus on work or his personal life, and he had to spend a hours of his days chasing these financial institutions in one of the worst times of his life.

Kroo looked into what happened. They refunded around £4,500 for unauthorised ApplePay transactions. The £10,000 loan that was applied for was settled, with no interest accrued and they requested Mr A's consent to report information to Cifas for added protection. £10,000 was returned from an account it was sent to in his name, held by another business. The remaining loss stands at around £15,000. Kroo said they did not refund the transactions which went to another account, with a business I'll call 'T', because they went to an account in Mr A's name and the funds were lost from there. They also looked into his complaints that a loan repayment of over £450 was taken from his account against what they had told him, but as they reversed the payment the next day, they did not think they needed to do anything further with respect to this. They also apologised as Mr A's account was restricted on two occasions in June and July 2025.

Unhappy with the response from Kroo, Mr A escalated his concerns to our service. One of our investigators looked into what had happened and recommended that Mr A should be refunded the remaining losses, with Kroo paying for 50%, and the other 50% of the loss was to be paid by 'T'. This was because they thought the transactions on both accounts were unauthorised and ought to be refunded, but without Mr A accruing a double benefit from both refunding in full. They also recommended that Kroo pay Mr A £200 in recognition of the distress and inconvenience they had caused him. Kroo did not agree with our investigator's recommendations, but 'T' did.

Kroo's objections were, in summary:

- They disagreed with our investigator's calculations for the total loss as some of the transactions listed had been declined. Our investigator wrote to both parties to clarify the loss, and as Kroo did not respond to this I assume they agreed with the new calculations.
- They did not think a refund was due for the inter-bank transactions as they were moved to Mr A's own account, and they had tried to recoup funds from 'T' but no funds remained in the account. They would not be looking to refund these as they could not investigate further as they did not know the final destinations of the transactions.

As no agreement could be reached, the case has been passed to me to decide.

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.

Having done so, I have reached the same conclusion as our investigator, and for broadly the same reasons.

Did Mr A authorise the disputed payments?

Kroo do not seem to have treated the disputed payments as authorised. Rather it has broadly seemed to accept Mr A's explanation that his phone was stolen from him in May 2024.

In one of their responses to our service, there was one comment within a 'tracked change' which asked how the thief gained access to his Kroo banking app given that a password or biometrics was needed. It is unclear if this is an argument Kroo wished to make, but for completeness, I will say I am also persuaded that the payments were not authorised.

Mr A was waiting for a taxi at the time his phone was stolen. This is a popular method for criminals to gain access to unlocked phones, as people often have their phone open and unlocked so that they can monitor the progress of their taxi through an app. So I think it is plausible that the third party either observed him entering his passcode, or stole the phone whilst it was open. Once inside someone's phone, the third party would have had access to a wealth of personal data that would have allowed access to apps and accounts.

Mr A has been consistent in his explanation of events and has shown us evidence that he replaced his sim card and mobile phone and reported the matter to the police. The technical evidence also shows that Mr A added a new device the day after the robbery, and it is on that date that he was able to get back into his email and apps and reported the matter to Kroo. This activity in physical shops appears to be consistent with a pattern of fraud that is known to financial businesses – utilising high value shops like Apple Store and Selfridges to attempt to maximise profits from a stolen device or card. And whilst the other payments went to accounts in Mr A's own name, there had been numerous declined transactions on his Kroo account so I think it would make sense for an unknown third party to transfer funds to another account they could access in order to attempt further spending – which is what happened on the other accounts funds were sent to.

There were numerous declined transactions, and Kroo blocked Mr A's account around 5pm on the day of the disputed transactions. There were further transactions attempted at the time. This also is consistent with an unknown third party might use a stolen account.

ApplePay was set up to make some disputed transactions at around 4am on the day in question which required a one time passcode to be set up. Given the unknown third party had access to Mr A's genuine phone and email, I am satisfied that they could have set up the ApplePay.

So, when considering everything, on the balance of probabilities I am satisfied that Mr A did not make or otherwise authorise the disputed transactions.

Have Kroo acted fairly in declining Mr A's request for a refund?

Under the Payment Services Regulations 2017 (PSRs), the starting point when a payment is unauthorised is that the payment service provider (here Kroo, and 'T') must provide a refund to the payment service user (here Mr A). There are, however, exceptions to this which Kroo may rely on when declining to reimburse Mr A. The relevant regulations say Mr A is obliged to notify Kroo without undue delay on becoming aware of the theft or unauthorised use of a payment instrument, and that Mr A will be considered liable for the disputed transactions if he with intent or gross negligence failed to do so.

In short, Kroo may hold Mr A liable for the payments if they can show he has failed in his obligations with gross negligence twice; firstly by failing to notify it when his phone was stolen, and secondly, by failing to keep his secure information safe.

Having considered the evidence and arguments available, I am not persuaded this is the case. I'll explain why.

The FCA approach document explains that gross negligence is a higher standard than negligence under common law, and that the customer needs to have shown a very significant degree of carelessness. So, I'm satisfied this would need to involve a serious disregard or indifference to an obvious risk.

With this in mind, I don't think it would be fair to conclude that Mr A acted with gross negligence by not informing it when his phone was stolen because:

- For clarity, I don't think it's accurate to describe Mr A's phone as a "payment instrument" for the purposes of the PSRs, as it is the Kroo app, rather than the phone itself, which Kroo issued to Mr A.
- That aside, I'm not persuaded that most people would appreciate that they needed to inform their payment services provider that their phone (and therefore the apps on their phone) had been stolen or that there was a risk to their banking apps or accounts if they didn't do so.
- I note that the terms and conditions relevant to Mr A's account state that they will not be liable to refund unauthorised transactions where "*You do not notify us as soon as you reasonably could of the loss or theft of your card, mobile* or security details, or that you suspect someone has tried to use any of them.*". Mr A did not tell them until the day after the theft. I think given the circumstances Mr A found himself in, as the victim of violent crime without access to his phone, he did notify them as soon as he reasonably could, so I think he has acted in line with the terms and conditions of his account.
- Kroo's guidance on what to do if a phone is lost (I have been unable to find any that refers specifically to phones being stolen) merely says to contact their customer support team as soon as you can – not forgetting to tell them if their card is linked to Apple or Google Pay on the lost device. This hints at, but does not highlight any specific risks to customers, and merely asks them to get in touch as soon 'as they can'.
- For these reasons, I do not think it would be fair to conclude that Mr A had acted with a significant disregard or indifference to an obvious risk by not reporting that his phone had been stolen immediately after the robbery occurred. I think most people would assume banking apps were safe given the additional security on place on a mobile phone and to access secure apps. This means that I do not consider that his behaviour amounts to gross negligence for the purposes of the PSRs. And so it

follows that it would not be fair to hold him liable for the payments on that basis.

Further to this, I do not think it would be fair to say that Mr A acted with gross negligence in relation to failing to keep his personalised security credentials safe. Whilst I recognise that the evidence shows Mr A's stolen phone was used to make the transactions and access his account, I am not persuaded this means Mr A must have been grossly negligent in keeping his login information safe. Fraudsters have sophisticated means by which to get into accounts once they have access to someone's device – and it is clear that the person or persons responsible in this case were organised and able to get into Mr A's Apple ID, email and multiple accounts. I am conscious that without Mr A's stolen phone we are unable to prove how this could or could not have happened – such as asking an expert to examine the phone for malware. On the evidence available, I do not think it would be reasonable to conclude that Mr A acted with gross negligence in failing to keep his secure information safe. So, for the reasons explained, I don't think Kroo has fairly declined Mr A's request for a refund.

The loan

Mr A was understandably unhappy that a loan was able to be taken out of his name and paid into his account by the fraudster. After Kroo became aware of the fraud, they wrote off the loan and any interest.

Kroo also accept they took a loan repayment after they had told Mr A they had written off the loan and that he was not being held liable for it. They reversed this payment the next day.

Considering all of this, Kroo have put Mr A in the position he would have been in had the loan not been taken out, and the payment not taken in error. So, I do not think that Kroo need to do anything further in relation to this.

The distress and inconvenience

Mr A has described the significant impact of the events of May 2024 on him. He was the victim of a violent crime, before discovering he had been subjected to financial crimes too. He explained that he had not received good customer service from Kroo at this time. He said that he received little to no updates and had to chase them. I can see they did provide updates and came to a conclusion in a timely manner. I appreciate that Mr A would have preferred it to be dealt with more efficiently, given the traumatic circumstances, but I do not think they caused undue delay in the handling of his disputed transaction claim.

There were inaccuracies in the final response letter Kroo provided to Mr A. This suggested that Mr A would be receiving not just what was refunded, but approximately a further £23,500, which Kroo did not intend to pay him. Kroo explained this was written in a misleading way and they meant they were trying to request funds back from the receiving accounts. This was not corrected for nearly a week, and I understand this must have added to Mr A's distress and inconvenience.

Mr A has also described the impact of the misleading information followed by the refusal to refund his losses. He said he had been unable to sleep, to focus on personal or professional life, and his plans to buy a house had been taken from him. He said he had even struggled to eat as he was so worried about whether he would get his money back.

I have to consider that the starting point for all of this was the fraudster – the person who robbed him and stole his money. But the misleading information, followed by Kroo's refusal to take responsibility for refunding what was owed to Mr A under the PSRs, certainly would have added to the burdens Mr A was already feeling. When considering all of this, I think our investigator's recommendation that Kroo pay £200 in recognition of the distress and inconvenience they caused is fair and reasonable.

My final decision

I uphold this complaint and require that Kroo Bank Ltd:

- Refund Mr A 50% of the remaining loss;
- Pay 8% simple interest on the losses from the date of the losses to the date of the repayment; and
- Pay Mr A £200 in recognition of the distress and inconvenience they caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 15 August 2025.

Katherine Jones
Ombudsman