

## **The complaint**

Mr M and Mr C, on behalf C and C ('C') – a business, complain that Lloyds Bank PLC ('Lloyds'), hasn't reimbursed the money it believes it lost to an authorised push payment ('APP') scam.

## **What happened**

The details of this case are well-known to both parties, so I don't need to repeat them at length here.

In summary, C ordered materials through a company, which I'll call 'Company H'. Company H sourced materials ('blocks') from a company based abroad, which I'll call Company I. Company H was the sole UK distributor of the blocks provided by Company I.

On 5 and 6 October 2022, C made two payments, one for £3,165.69 and one for £40,000. The materials never arrived and in early April 2023, Company H entered into voluntary liquidation. C believes Company H had no intention of providing the materials and the director of Company H has defrauded over 50 creditors.

C reported the matter to Lloyds, who declined reimbursing C. In short it considered C wasn't a micro enterprise – so it wasn't covered by the provisions of the Lending Standards Board's Contingent Reimbursement Model ('CRM') Code, which provided some customers with additional protections to some APP scams. Lloyds also explained it had tried to recover the funds from the beneficiary bank, but this was unsuccessful.

Unhappy, C referred the matter to our service. In its submissions to this service, Lloyds further added that the payments made from C's account weren't unusual and were in keeping with the C's normal banking activity. So, it considered there would have been no reason for it to consider the payments as suspicious or given it cause to intervene on the payments. And even if it had intervened, any intervention wouldn't have made a difference at the time the payments were made as it considered Company H was a legitimate company and that the situation was a civil dispute between C and Company H.

One of our Investigators reviewed the matter. In short, they didn't uphold the complaint, as they considered the matter was a civil dispute – and wasn't fraud. So, they didn't consider Lloyds was liable to refund C.

C disagreed and has asked for an Ombudsman's review as the final stage of our process.

It should be noted at this point there is an ongoing police investigation and the latest update from the police states that two people have been arrested on suspicion of fraud, and they are currently released under investigation, with a file soon be sent to the Crown Prosecution Service to seek charges for fraud.

As the matter hasn't been resolved, it's 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.

I'm 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 focussed 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.

In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

I'm very sorry to hear of what's happened to C. C paid money to Company H in good faith, but didn't receive the materials, and it's been left out of pocket as a result.

But having thought carefully about Lloyds' actions, I don't uphold C's complaint. I do appreciate how disappointing this will be for C and its directors – Mr M and Mr C – but I don't think Lloyds has acted unfairly in its answering of the complaint that the matter is a civil dispute and that it is therefore not liable to reimburse C. I'll explain why.

The CRM Code which provided some additional protection to customers who have been the victims of an APP scam, defines a 'Customer' as:

*"A payer as defined in regulation 2(1) of the PSRs, that is, a person who holds a payment account and initiates, or consents to the initiation of, a payment order from that payment account; or where there is no payment account, a person who gives a payment order, who is:*

- (i) A Consumer, as defined in regulation 2(1) of the PSRs, that is, an individual who, in contracts for payment services to which the PSRs apply, is acting for purposes other than a trade, business or profession;*
- (ii) A Micro-enterprise, as defined in regulation 2(1) of the PSRs, that is, in summary, an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million;*
- (iii) A Charity, as defined in regulation 2(1) of the PSRs, that is, in summary, a charity with annual income of less than £1 million"*

Here, C doesn't meet the definition of a 'Customer' under the CRM Code as it isn't a 'micro-enterprise'. And this is important, as it means the *potential* for any additional protection that was provided by the provisions of the CRM Code to payments that are the result of an APP scam, aren't applicable to those businesses that aren't a micro-enterprise. So, as the payments C made aren't covered by the CRM Code, it isn't an applicable consideration in this case.

I also agree, that as it stands, I can't fairly conclude that C has been the victim of an APP scam. According to Companies House, Company H was incorporated in February 2017. So, it had been running for a number of years prior to C making payments to it. Company H also had employees; attended events and shows; and carried out services over those years. I don't think there is a dispute that Company H weren't a legitimate supplier – but I think the crux of the matter is whether, quite possibly due to financial hardship, as a result of financial mismanagement or otherwise, Company H's behaviour shifted and to such an extent that it was obtaining funds from customers without having any intent to provide the goods or services.

And, in the individual circumstances of this complaint, I don't think I can fairly conclude that that is the case here. I'll explain why.

I have given consideration to the liquidator's original report, and I have also considered the receiving bank statements (where Company H held its account) that have been provided. These bank statements were provided in confidence, to allow our service to discharge our investigatory functions. The information that has been provided is to assist with the determination of this complaint. Due to data protection laws, our service can't share any specific information about the beneficiary or the receiving bank account – but I can share a summary of the information I have seen.

From reviewing the receiving bank account activity – it suggests Company H was running in line with its purpose with payments to firms associated within that line of industry and wages being paid to employees up until the end of January 2023.

Importantly, I can see from September 2021 (so around a year prior to C's payments) up until March 2023 (so around six months after C's payment), Company H paid Company I – the provider of the materials/blocks, on 37 occasions with the amount totalling approximately £433,000.

And I can also see that from October 2022 (when C made its payments) up until March 2023 Company H paid Company I on nine occasions, totalling approximately £87,000. So, at the time C made its payments, Company H was making payments to Company I and continued to do so in the subsequent period after.

I don't think that is the typical behaviour of a fraudster – whereby you would reasonably expect the funds to be misappropriated for personal gain with no intent to use the funds for the purpose in which they were obtained.

It seems clear to me that Company H was struggling financially. But Company H was still making payments to Company I throughout late 2022 – so after C had made its payments to it. So, when considering the applicable test in this case, which is whether there was intent to take C's money and not use it for the purpose intended, I can't be as satisfied as I would need to be to say C has been scammed. I can't fairly say that Company H had no intention of trying to fulfil C's order when Company H was still making payments to Company I, and were still seemingly trying to operate. So, I'm therefore not satisfied that the payments C made are an APP scam.

I would like to add, for C's benefit here, that I appreciate that the police are providing its submissions to the Crown Prosecution Service to seek charges for fraud – and that may ultimately shed further light on any potential wrongdoing and from whom and from what point. And it may well be that Company H's directors may be held accountable, and it may be determined that payments were taken from customers fraudulently. If it is determined that the payments – potentially taken from a certain point were more likely than not fraudulently obtained – and those customers payments therefore meet the definition of an APP scam, it would mean some customers (including micro-enterprises) can have their claim revisited under the CRM Code. But unfortunately, that won't make a difference in C's circumstances. And that's because C isn't a 'micro-enterprise' – so isn't afforded the additional protection of the CRM Code.

Financial firms such as Lloyds are expected to process payments and withdrawals that its customer authorises it to make, but Lloyds should have also been on the look-out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). And, in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment.

Here, I'm satisfied that there wasn't anything else Lloyds could have done to prevent the loss when C initially made the payments – as I agree with Lloyds in that the activity wasn't so out of character that it would have required Lloyds to potentially intervene on the payments. C wasn't a micro-enterprise and regularly made payments of similar amounts to those it made to Company H. So, I don't think Lloyds reasonably ought to have had any concerns that C's funds were at risk at the time the payments were made. I also don't think Lloyds could have done anything to recover C's funds because Company H had already entered into voluntary liquidation when C reported the situation to Lloyds.

Finally, I appreciate C has advised that another individual, in similar circumstances, has received reimbursement of their losses following our services' involvement. I can't comment on the outcome of other claims or complaints, and I can only consider the circumstances of the complaint before me when deciding what's fair. Here Lloyds declined reimbursing C, and my role is to determine whether it acted fairly in reaching the outcome it did.

I have a great deal of sympathy for C. It paid Company H in good faith and didn't receive the materials as expected and has been left out of pocket. However, and overall, I'm not satisfied there have been any failings by Lloyds, and I therefore can't fairly hold Lloyds responsible for C's loss.

### **My final decision**

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask C and C to accept or reject my decision before 12 December 2025.

Matthew Horner  
**Ombudsman**