

## **The complaint**

Ms G is unhappy that HSBC UK Bank PLC (trading as 'First Direct') won't refund her after she reported being the victim of a scam.

## **What happened**

Both parties are aware of what happened so I shall only provide a summary. I want to assure both sides that whilst I may not mention everything, I have considered all the information provided by both parties.

In November 2023, Ms G hired a builder, who I shall call 'Mr R' to do work on her property. She made several payments to Mr R over the next few months which totalled £26,605.

Ms G says that most of the agreed works had never been started, and what had been done was not completed to a reasonable standard. She gave Mr R an ultimatum to finish all works by the end of August 2024 or she would ask for her money back. As he didn't meet this deadline, she told him that she was ending the agreement and she sent him a bill for £15,780. He did not agree and eventually stopped communicating with her.

Ms G commissioned a report from a chartered surveyor that said the work which had been done was largely substandard. He placed the value of the work carried out to an acceptable standard to be £6,700 plus VAT. The report said it would take approximately £8,850 to remedy the work which was considered substandard.

Ms G complained to First Direct about what had happened. First Direct declined to reimburse her as it said this was a civil dispute which was outside of the relevant scam reimbursement rules. Ms G referred her complaint to the Financial Ombudsman Service.

Our Investigator considered the evidence and did not uphold the complaint as he thought the matter was a civil dispute, not a scam.

Ms G did not agree and requested a final decision. The complaint has now come 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.

Ms G has provided us with a large amount of evidence relating to what happened and about Mr R's background. She has also explained in detail why she thinks Mr R has scammed her. Whilst I have considered everything she has provided, I won't be commenting on all the points she has made, and I won't be responding in the same level of detail. I hope this doesn't cause any frustration or offence; my decision will focus on what I consider to be the relevant issues in dispute. The rules which govern the Financial Ombudsman Service allow me to do this as we are a free and informal 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 having been good industry practice at the time.

At the time of the payment, First Direct (as a part of HSBC) was a signatory to the Contingent Reimbursement Model Code ('the CRM Code'). The CRM Code did provide reimbursement to some victims of Authorised Push Payment ('APP') scams, but it did not always apply.

The CRM Code specifically says it doesn't apply to "private civil disputes", specifically, where a customer has paid a legitimate supplier for goods or services, but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier.

First Direct said it doesn't have to reimburse Ms G as what happened between her and Mr R was a civil dispute, so it isn't covered under the CRM Code. I will consider if I think it was reasonable of First Direct to decline Ms G's claim for this reason or not.

*Is what happened a scam or a civil dispute?*

The CRM Code defines an APP scam as:

*"The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent."*

For me to find that Ms G had been the victim of a scam, rather than a civil dispute, I would need to be satisfied that:

- (a) Ms G's purpose for making the payment wasn't the same as Mr R's purpose for taking the payment; and
- (b) The difference between the two purposes was because of dishonest deception on the part of Mr R.

So I have to consider Mr R's intentions from the start of the process – did he intend to dishonestly deceive Ms G from the start? Did he never intend to complete the work that they had agreed?

There are challenges in establishing what another person's intentions were and I cannot know for sure what someone else was thinking. So I must consider all the available evidence and decide on balance what I think Mr R's intentions were likely to have been.

To say an APP scam has occurred, I would need to be satisfied that criminal deception is involved. The evidence for this would need to be convincing.

Having thought carefully about all the evidence provided by both parties, I cannot say that it is more likely than not that Mr R set out with an intent to defraud Ms G, or that he didn't intend to fulfil the agreement they had.

I say this for the following reasons:

- Mr R did do some of the work to the correct standard and the surveyor's report confirms this. If Mr R was intending to defraud Ms G, it seems unlikely that he would go to the trouble and expense of doing some work to a reasonable standard, as this would lessen his fraudulent gains from committing the scam. I also note that the information from Mr R's bank shows that there was purchasing activity on his account which was consistent with how a builder would

operate.

- Mr R attended Ms G's property for months after receiving the payments. This suggests to me that his intention was to complete the works. A scammer would often look to take payment and leave quickly to lessen the risk of them being caught or challenged. I understand that Ms G thinks Mr R kept attending her property after being paid so that he could get her to pay more deposits for jobs, but Ms G appears to have made it clear quite early on in her messages with the scammer that she wasn't going to pay any more until the current jobs were finished. I can also see that Ms G was forthright with telling Mr R when she didn't think something had been done correctly, so I'm not convinced that Mr R would've found returning to the property to have been a lucrative prospect in the way Ms G has described.
- I acknowledge that Mr R eventually stopped coming and some of the works were never finished, so I can understand why Ms G has said this is evidence of him being a scammer. But I think there are other plausible reasons why this could've happened. It's possible that Ms G's project overran and Mr R had moved on to do other jobs. It's also possible that there had been a breakdown in the relationship between Mr R and Ms G which meant his intention to complete the work changed and he didn't want to focus on Ms G's job anymore. This doesn't mean that I think Mr R has acted professionally or has fulfilled his contract with Ms G, but it could give another explanation for why the works weren't completed, rather than the only conclusion being that Mr R was a scammer. I think the fact that other plausible reasons exist for what happened makes it more difficult for me to decide on balance that a scam occurred.
- Ms G thinks Mr R intended to defraud her as he knew he didn't have the expertise required to do the jobs she had asked him to do. I acknowledge that the surveyor's report makes it clear that the completed work was largely substandard, and that this could indicate fraud. I'm sorry that Ms G didn't receive a good standard of work for the money that she paid, but I can't reach the conclusion that Mr R is a scammer purely based on the evidence that he did substandard work. It could be possible that Mr R isn't a competent builder who doesn't know what the proper standard is for some of the jobs she asked him to do, rather than him deliberately doing work to a poor standard.
- It's possible that Ms G paid a significantly higher amount for the work and materials compared to the values given in the surveyor's report. I'm also aware that Ms G is neurodivergent which (in her own words) means she can be too trusting of others. It's certainly possible that Mr R (and the other contractors) took advantage of Ms G's trusting nature by inflating the price of the works and materials, which could indicate that they intended to scam her. But I'm also aware that Ms G reported Mr R to Trading Standards and they responded to say they believe what happened to be a civil matter, not a criminal one. It's more difficult for me to say that there is enough evidence to suggest criminal intent here when Trading Standards themselves haven't said so and haven't chosen to investigate Ms G's allegations further.
- Ms G has raised that Mr R has possibly taken steps to make himself more difficult to trace, which she believes is evidence that he is a scammer. She has also found that Mr R has a large number of County Court Judgements (CCJs) against him, which she believes could be evidence of further customers who have been scammed and obligations that he didn't meet. I can certainly understand why this would lead Ms G to conclude Mr R is a scammer, but I am cautious of relying too much on this evidence as I don't have the details about

each CCJ to understand who brought the action and why. I'm also conscious that Trading Standards didn't have any other scam reports about Mr R, and his bank has only had one other scam allegation from years before which was cleared. So if Mr R was routinely scamming his customers, I would expect to see a higher level of scam reports.

Based on the factors above, I don't have enough evidence to say Mr R intended to scam Ms G so I cannot say this is a scam and that First Direct need to consider reimbursing her under the CRM Code. I appreciate that my conclusion is not what Ms G wanted, and I'm sorry that she has suffered this financial loss. I want to emphasise that my conclusion doesn't mean that I agree with the alleged actions of Mr R or that there hasn't been a breach of contract here, it's just that there isn't enough evidence for me to say something criminal has occurred.

#### Customer service

Ms G was also unhappy that it was, in her words, 'impossible' for her to submit her evidence to First Direct. I'm sorry to hear about the difficulty she encountered and I understand why she would be concerned that her complaint hadn't been properly investigated. But it appears that First Direct did receive a lot of Ms G's evidence, as they were able to send it to us, so I do think that she did get a fair opportunity to tell them why she thought the matter was a scam. As I don't believe First Direct made an error here, I won't be awarding any compensation.

#### **My final decision**

My final decision is that I do not uphold this complaint against HSBC UK Bank PLC (trading as First Direct).

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 20 February 2026.

Paula Lipkowska  
**Ombudsman**