

## The complaint

Mr G complains that HSBC UK Bank Plc trading as first direct won't reimburse him after he made payments for building work that he now considers to have been part of a scam.

## What happened

The circumstances of this complaint are well known to both sides, so I won't repeat them in detail here. But briefly, both parties accept that in around July 2024, Mr G was looking to renovate his home by adding a loft extension and, after considering several different firms, enlisted a firm I'll refer to as 'P' to complete the work. Mr G has explained he chose P as he was offered a competitive price, but also because P's director (who I'll refer to as 'Mr W') seemed to have a good understanding of building permit rules that would avoid issues further into the project and also agreed to 'manage' the project, enlisting structural surveyors and building inspectors where necessary.

Mr G asked to speak to a previous customer of P's and was provided with contact details for, who Mr W stated, was a customer he'd completed similar work for. Mr G has said that when he called this individual, they highly praised P and the standard of work provided, which further assured Mr G to proceed.

Mr G was quoted £34,000 to complete the project and initially paid £5,450 in August 2024 to cover scaffolding, building control fees, the structural engineer fees and materials. However, as work proceeded, Mr W would make Mr G aware of additional costs that were necessary in order to meet various standards being set out by the surveyors or inspectors, such as further fire-proofing measures or additional steels.

Mr G had never seen any of the building inspectors/surveyors in person but would receive copies of email correspondence from them via Mr W. Mr G asked Mr W for contact details to speak to them but excuses were provided as to why these couldn't be found. Mr G attempted to email them on the email address referenced in correspondence, but his email was undeliverable. When Mr G questioned this, he received further correspondence from the inspectors and was then able to communicate via email.

As works progressed, Mr G and his family were told to not go upstairs in their home as it was unsafe to do so. Costs for the build also escalated significantly from the initial quote. Additionally, Mr G had paid in advance for materials that weren't being provided. For example, he'd paid for windows that he was told were delayed due to being bespoke, a bathroom suite that he was assured was on Mr W's van but that the van had broken down, and Mr W then provided several excuses related to his health as to why he couldn't attend site.

As Mr G became more suspicious, he looked into the IP addresses from which building control inspectors were contacting him and found it to be the same location as Mr W. He then conducted further research on the individuals whose names had been provided and found they weren't listed on any relevant registers. Mr G has since contacted building suppliers from which he has been provided invoices and has been informed that invoices provided to him are either fabricated (and his orders therefore do not exist) or doctored so

that prices quoted are significantly higher than what was ordered, or so that goods provided are a lower quality than provided. In total Mr G has paid £65,202.80 to P.

Believing he had fallen victim to a scam, Mr G contacted first direct to raise a claim. First direct considered Mr G's claim but declined to reimburse him, as it said this was a civil matter between Mr G and P. It did however offer £200 in compensation for service issues.

Mr G remained unhappy and referred his complaint to our service. An Investigator looked into the complaint, but also considered this to be a civil dispute, as while Mr G was dissatisfied with the quality of work completed, work had nevertheless been done.

Mr G disagreed with the Investigator's view. He explained he's now enlisted a trusted builder who has confirmed the work completed does not meet regulation standards, is unsafe and largely needs to be re-done. Mr G has been quoted over £84,000 for the required re-work. He's also explained that Mr W is due in court for fraud and deception, as is his partner, who it transpires was the 'customer' Mr G spoke to on the phone who recommended P.

The complaint was referred to me for a final decision. As part of my review into Mr G's complaint, I contacted first direct informally, setting out that I consider Mr G to have been the victim of a scam, rather than this being a civil dispute, and that as Mr G's quote from his new builder suggest he hasn't benefitted from the works completed so far, I think he should be refunded in full under the Contingent Reimbursement Model ('CRM') Code (and FPS and CHAPS Reimbursement Rules ('the Reimbursement Rules') for his final payment made).

First direct disagreed with my informal opinion –as it didn't consider an effective warning would have prevented Mr G from making the payments. It did however offer to pay Mr G 50% of his losses as a gesture of goodwill, plus the previously offered £200 compensation.

Mr G declined first direct's offer so I'll now issue 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.

The starting position in law is that an account holder is responsible for payments they made themselves. Here, there's no dispute that Mr G agreed to each payment that took place. The CRM Code and the Reimbursement Rules change that starting position for some payments that are made as part of an APP scam. However, in order to consider whether these apply, I'd first need to be persuaded that the payments made were the result of a scam, rather than a dispute between Mr G and P.

In this case, I'm satisfied that Mr G was the victim of a scam. I say this based on the following:

- Mr G has provided persuasive evidence that, despite assurances that a building inspector and structural surveyor had been enlisted for his project, neither actually existed and correspondence from these parties was fabricated by Mr W. This in turn means that P was accepting payments for services it had no intention of providing.
- Mr G has paid over £30,000 in total for goods that were never provided, due to excuses given over time by P to explain delays in their provision. Mr G again has provided evidence that items were never ordered and invoices were fabricated. Other invoices have been doctored, which demonstrates P was attempting to receive surplus money for goods that it had no right to charge.

- Mr G was told it was unsafe for his family to go upstairs in their property, but was shown photos of sections of work. New builders have confirmed that work stated as completed was never done, or where it has been done, the quality of finish or of supplies is so poor that it needs to be done again. As an example, Mr G was told plumbing had been laid for his new bathroom, but this wasn't done, and he was told that further insulation, soundproofing, or fireproofing materials were required, which were charged for but never laid.
- Mr W is due in court for carrying on a business for fraudulent purpose and for fraudulent trading.

On this basis, I'm satisfied that Mr G was the victim of a scam. I therefore need to consider if he is entitled to reimbursement.

### **Payments made during the inception of the CRM Code**

The CRM Code, which took effect on 28 May 2019 until it was retired on 7 October 2024, was a voluntary code for reimbursement of APP scams which required signatory firms to reimburse customers who had been the victims of APP scams in all but a limited number of circumstances.

All but one of the bank transfers Mr G made are covered by the CRM Code (the final payment being made after its retirement which I'll cover later in my decision).

Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that\*:

- The customer ignored what the CRM Code refers to as an "Effective Warning" by failing to take appropriate action in response to such an effective warning
- The customer made payments without having a reasonable basis for believing that: the payee was the person the Customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate

*\*Further exceptions outlined in the CRM Code do not apply to this case.*

*Did first direct meet its obligations under the CRM Code and did Mr G ignore an effective warning?*

When making payments to the scam, for the majority of payments, Mr G was asked the payment purpose, which it appears he selected as 'paying a bill'. Mr G then received an on-screen warning, providing some advice that included not paying for services he hadn't seen, checking reviews of the firm first and speaking to the firm if payments requested increase.

Additionally, on around the sixth payment Mr G made to the scam, first direct stopped the payment pending further questioning with Mr G by phone. During this call Mr G was honest about the payments, explaining he'd enlisted a builder and was paying him as the work progressed, that he is around half way through the project and the builder seems to be genuine. On this basis, Mr G was able to continue making payments to the scam.

Having considered the scam warnings first direct provided, I think it could have further elaborated on common hallmarks of builder scams that applied to Mr G's circumstances, such as scope and cost of works escalating, but realistically I think this was a complex scam that even a more thorough warning wouldn't have uncovered. However, as first direct will be aware, reimbursement under the CRM Code is not reliant on a firm being able, but failing, to

uncover the scam – and where there is no blame on either side, customers are still entitled to full reimbursement. I've therefore gone on to consider whether Mr G should be held liable for any losses incurred.

*Did Mr G have a reasonable basis for belief when making these payments?*

I think it's hard to argue other than Mr G acted reasonably when making payments to the scam – he enlisted a registered company, met with them in person, obtained the number of a previous 'customer' and was shown, what he believed, was previous work by the builder firm. He also paid in instalments for the work and was shown, what he believed was evidence of legitimate progress. Without applying a very cynical eye, I don't think it was unreasonable for Mr G to assume that work was progressing as he was told.

As P's excuses for further payments and lack of materials progressed, Mr G did make further investigative steps which helped to uncover the scam, but until suspicions arose for such steps I don't think it's reasonable for a customer to have taken such precautions.

While it appears that the quote he was initially provided for works was cheaper than others received, I don't think the price was so unreasonable in that it ought to have raised concerns and equally, I think Mr G allayed concerns this might have caused by asking to speak to previous customers of P's.

Therefore, considering the payments holistically, I don't think any exceptions to reimbursement of the CRM Code apply and I therefore think Mr G is entitled to a full refund of all bank transfer payments made towards the scam during the CRM Code's inception.

### **Final payment made to the scam since the inception of the Reimbursement Model**

The Reimbursement Rules came into force on 7 October 2024 and apply to all UK-based Payment Service Providers (PSPs). They put a requirement on firms to reimburse APP scam payments made via the Faster Payments Scheme (a similar set of rules covers CHAPS payments), in all but very limited circumstances. The final payment Mr G made to the scam was after 7 October 2024 and therefore falls under these rules.

In order for a payment to be 'reimbursable' under the Reimbursement Rules it must meet the following criteria, which have been summarised:

- The Exception does not apply or the consumer was a vulnerable consumer at the time the payment was made (the Exception being that as a result of *gross negligence, the consumer has not complied with one of the standards set out under the Reimbursement Rules.*)
- The consumer is not party to the fraud, and is not claiming dishonestly or fraudulently.
- The payments were made in relation to a fraud, rather than in circumstances only giving rise to a private civil dispute.
- The purpose of the payment was not unlawful.

I've already set out above why I'm persuaded that Mr G has been the victim of a scam and not a civil dispute. First direct hasn't made any specific arguments as to why Mr G's claim shouldn't be covered by the Reimbursement Rules.

The only potentially relevant Exception here is that Mr G failed to have regard to first direct's interventions with gross negligence. I've already explained above why I consider Mr G had a reasonable basis for believing the payments he was making were for legitimate purposes. And for largely the same reasons, in relation to the final payment, I see no reason here to determine that he failed to have regard to those interventions with gross negligence.

The Reimbursement Rules allow a firm to deduct an excess to each APP scam claim, unless a customer was vulnerable to a particular APP scam. The maximum excess that can be applied is currently £100.

### *Compensation*

First direct offered £200 in compensation to Mr G in relation to service issues in handling the complaint. I think this offer is fair to reflect additional frustration caused by delays in the claims handling process.

### **My final decision**

I uphold this complaint and instruct HSBC UK Bank Plc trading as first direct to pay Mr G:

- the amount lost to the scam - £65,202.80, minus the excess of a maximum of £100;
- £200 in additional compensation
- 8% simple interest per year on that amount from the date first direct declined his claim under the CRM Code and Reimbursement Rules to the date of settlement, less any tax lawfully deductible.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 6 May 2026.

Kirsty Upton  
**Ombudsman**