

The complaint

Mr and Mrs P complain that Lloyds Bank PLC ('Lloyds') hasn't reimbursed the money they believe they 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, Mr and Mrs P had built their own property and, in the process of obtaining the building materials, came across an individual whom I'll call 'Mr A', who at the time worked for the company they purchased the materials from. Some years later Mr and Mrs P were looking to extend their property. They attended a well-known event show and came across Mr A, who was now working for a company that I will call 'Company H'. Company H sourced materials ('blocks') from a company based abroad, which I'll call 'Company I'. Company H were the sole UK distributor of the blocks provided by Company I.

Having spoken with Mr A about the plans and happy with the product Company H were using, Mr and Mrs P decided to proceed with a purchase of materials from Company H. Mr and Mrs P received an invoice for £31,514.35 on 28 September 2022.

On 30 September 2022, Mr and Mrs P made a partial payment for the blocks paying £25,000 to Company H. Mr and Mrs P paid the remaining balance of £6,514.35 on 3 October 2022. Mr and Mrs P received confirmation that their funds had been received, and that the order was sat with Company I and would be collected and delivered to Mr and Mrs P in late January 2023. Ultimately Mr and Mrs P didn't receive the blocks – and were given various excuses by Company H for the delays.

In early April 2023 Company H entered into voluntary liquidation and Mr and Mrs P never received their blocks. As a result, Mr and Mrs P contacted Company I who didn't have a record of an order in their name.

Mr and Mrs P considered Mr A/Company H were taking orders with no intention of ever fulfilling them. Mr and Mrs P also discovered Company H attended another event show on 26 March 2023 and was taking orders just days prior to Company H entering voluntary liquidation. Mr and Mrs P consider Mr A was trying to maximise the amount of money in Company H before declaring voluntary liquidation. Mr and Mrs P considered they had therefore been the victim of a scam. Mr and Mrs P also pointed to the liquidator's findings and around Company H's accounting submissions which misrepresented Company H's financial stability.

Mr and Mrs P reported the matter to Lloyds, who declined reimbursing them advising the matter was a civil dispute between Mr and Mrs P and Company H. Lloyds considered Company H was a genuine company that appear to have gone into financial difficulty. It also acknowledged that the police were looking into the matter and if there was a prosecution then Mr and Mrs P could refer the matter back to it for further consideration.

Unhappy, Mr and Mrs P referred the matter to our service. Mr and Mrs P provided detailed submissions of what had happened and why they considered they were the victim of a scam orchestrated by Company H and its director Mr A.

One of our Investigators reviewed the matter. At the time Mr and Mrs P made payments to Company H, Lloyds were a signatory of the Lending Standards Board Contingent Reimbursement Model ('CRM') Code. So, the Investigator considered whether the CRM Code was an applicable consideration in Mr and Mrs P's complaint. The CRM Code provided increased protection for customers who were the victims of APP scams. But the CRM Code didn't apply to every type of disputed payment. The CRM Code didn't apply to disputes that are deemed to be a "*private civil dispute*" between two parties. In short, the Investigator didn't uphold the complaint, as they considered the matter was a civil dispute – and therefore said the CRM Code didn't apply to the payments Mr and Mrs P had made. So, they didn't consider Lloyds was liable to refund Mr and Mrs P.

Mr and Mrs P disagreed and have asked for an Ombudsman's review as the final stage of our process.

It should be noted at this point that throughout the course of this complaint, Mr and Mrs P have provided updates from the police investigation which 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.

Mr and Mrs P have made detailed submissions in support of their complaint. I would like to assure Mr and Mrs P that I've read and considered everything they've sent in. However, I don't intend to respond in similar detail. 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 – which is whether Lloyds acted fairly in its answering of the complaint that the matter is a civil dispute, and it is therefore not liable to reimburse Mr and Mrs P under the provisions of the CRM Code. 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 Mr and Mrs P. They paid money in good faith to Company H but didn't receive the materials, and it left them out of pocket as a result.

But having thought carefully about Lloyds' actions, I don't uphold Mr and Mrs P's complaint. I do appreciate how disappointing this will be for them, 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 them under the CRM Code. I'll explain why.

The starting position in law is that Mr and Mrs P will generally be considered liable for authorised payments. It's accepted that they authorised the payments in dispute and so they are liable for them in the first instance. At the time Mr and Mrs P made the disputed payments, Lloyds was a signatory of the CRM Code. The CRM Code provided additional protection from APP scams, but only in certain circumstances.

The CRM Code can only apply where the victim's payment meets the CRM Code definition of an APP scam.

Under DS1(2)(a) of the CRM Code, an APP scam is defined as:

“(i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or

(ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.”

And DS2(2)(b) of the CRM Code says it doesn't apply to:

“private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier”

There's been no suggestion made that Mr and Mrs P was deceived into transferring their funds to a different person. So, DS1(2)(a)(i) doesn't apply in these circumstances.

To uphold Mr and Mrs P's complaint under DS1(2)(a)(ii) of the CRM Code, I'd need to be reasonably satisfied that it is more likely than not that Company H received their payment for a fraudulent purpose. So, I've carefully considered whether the evidence suggests that Company H was most likely a *“legitimate supplier”* that had been paid for goods or whether Mr and Mrs P's payments meet the CRM Code definition of an APP scam.

The purpose of a payment forms part of the CRM Code definition of an APP scam. As such, the reason Mr and Mrs P made the payment is a relevant consideration when determining whether the CRM Code applies in these circumstances or not. For me to say the CRM Code applies in this case, I'd need convincing evidence to demonstrate Mr and Mrs P were dishonestly deceived about the very purpose of the payments they made, and Company H induced Mr and Mrs P to make payments with the intent to defraud them from the outset. It also means being able to exclude, on the balance of probabilities, the alternative possibility that this is simply a matter of Company H breaching a legitimate contract with Mr and Mrs P.

I've considered the evidence available, but I can't fairly conclude that Mr and Mrs P have been the victim of an APP scam in line with the above required definition. As a result, I'm not persuaded it was unfair or unreasonable for Lloyds to conclude that Mr and Mrs P's situation is a civil dispute between them and Company H. This means Lloyds isn't required to reimburse Mr and Mrs P under the provisions of the CRM Code. I'll explain why.

According to Companies House, Company H was incorporated in February 2017. So, it had been running for a number of years prior to Mr and Mrs P making payments to it. Company H also had employees and attended events and shows and carried out works 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 Company H's behaviour changed to such an extent that it was obtaining funds from customers without having any intent to provide the goods or services at the time Mr and Mrs P paid it.

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 we can provide a summary of what this information shows.

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 a year prior to Mr and Mrs P's payment) up until March 2023 (six months after Mr and Mrs P's payments), Company H paid Company I – the provider of the blocks Mr and Mrs P ordered – on 37 occasions with the amount totalling approximately £433,000.

And I can also see that from September 2022 (when Mr and Mrs P made their initial payment) up until March 2023, Company H paid Company I on 11 occasions, totalling approximately £110,000. So, at the time Mr and Mrs P made her payments, Company H had been making payments to Company I, and it 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.

While I appreciate that Mr and Mrs P contacted Company I who advised them there wasn't an order placed in their name, I think, on the balance of probabilities, that that was always likely to be difficult to uncover – given it was Company H ordering the materials from Company I. And that has been supported within the liquidator's report – that it is unclear what payments Company H paid to Company I were for which customers' materials.

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

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 what point. I acknowledge that new material evidence or information may come to light such as the Crown Prosecution Service making a decision to proceed with charges for fraud. And I accept, as a result of any subsequent trial, that there could be findings which supports Mr and Mrs P's contention that Company H never intended to use their funds for the purpose for which they paid Company H. Should that happen, then Mr and Mrs P can provide that information to Lloyds for it to reconsider their claim under the CRM Code.

Finally, I appreciate Mr and Mrs P have advised that another individual, in similar circumstances to them, 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 Mr and Mrs P as it deemed the matter was a civil dispute and is something not covered by the provisions of the CRM Code. And my role is to determine whether Lloyds acted fairly in reaching the outcome it did.

I have a great deal of sympathy for Mr and Mrs P. They paid Company H in good faith and didn't receive the materials they expected and have been left out of pocket. Company H seemingly had questionable business practices towards the end, providing mistruths to Mr and Mrs P (and others) around the expected delivery times, and it seemingly wasn't able to manage its finances. However, the test I have to apply in this case is whether Company H dishonestly deceived Mr and Mrs P into paying an amount for materials – with it having no intent from the outset to try and fulfil that order. I'm not persuaded there's sufficient evidence currently available to say Company H obtained Mr and Mrs P's payments for a fraudulent purpose. So, I can't say that Lloyds acted unfairly or unreasonably in treating Mr and Mrs P's claim as a civil dispute between them and Company H.

I'm also satisfied that there wasn't anything else Lloyds could have done to prevent the loss when Mr and Mrs P initially made the payments as I don't think it would have had any concerns that Mr and Mrs P's funds were at risk at the time. I also don't think Lloyds could have done anything to recover any funds subsequently also given Company H went into voluntary liquidation.

Overall, I can't fairly hold Lloyds responsible for Mr and Mrs P'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 Mr and Mrs P to accept or reject my decision before 20 February 2026.

Matthew Horner
Ombudsman