

## **The complaint**

Mrs M complains that Lloyds Bank Plc have failed to refund money she lost as part of an investment scam.

## **What happened**

Mrs M is represented in this complaint by a solicitor. For simplicity, I will refer to Mrs M throughout this decision, even when referencing what her representatives have said on her behalf.

Mrs M was introduced to an automated cryptocurrency investment platform – which I'll call 'B' - via an online advert which appeared to be promoted by a well-known TV Series. She was sold an online trading opportunity in which B promised her high returns. Mrs M carried out some research of her own and was satisfied that B was legitimate, so she agreed to invest.

B encouraged Mrs M to open accounts with third party cryptocurrency trading companies (which I'll call 'M' and 'C') and guided her through this process via remote access software it had asked Mrs M to install. Mrs M was then encouraged to make an initial investment of £185, she made this payment from her Lloyds account to her account with M, and was able to see that the funds had been received safely. B went on to show Mrs M evidence that suggested her initial investment was doing well and was ultimately able to convince her to take out a loan for £5,000 to fund further investments.

The loan was paid into Mrs M's Lloyds account on 15 February 2022, that same day she made a 'test payment' of £5 to her account with C, a short while later she attempted to transfer the full £5,000 to C. This payment was flagged as suspicious by Lloyds, who called Mrs M to confirm if it was legitimate. Following a discussion with Mrs M, Lloyds made the payment for her.

When Mrs M was subsequently unable to contact B to discuss withdrawing her funds, she realised she had been the victim of a scam. She contacted Lloyds on 3 March 2022 to tell it what had happened, but ultimately, Lloyds told her it would not be able to refund the money she had lost.

Mrs M was unhappy with Lloyds' response and so she referred her complaint to our service. One of our Investigators looked into what had happened, but did not feel that we could reasonably ask Lloyds to refund the payments Mrs M made. Mrs M maintains that if Lloyds had asked more searching questions when it spoke to her then it would have been able to uncover the scam, and so prevent much of her financial loss.

As no agreement could be reached, this case has been passed to me for a 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.

Having done so, I agree with the conclusions reached by the investigator, and for largely the same reasons.

It isn't in dispute that Mrs M authorised the disputed payments she made to M and C, from where her funds were subsequently transferred on to the scammer. And the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made.

However, I've considered whether Lloyds should have done more to prevent Mrs M from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character.

The initial two payments Mrs M made, for £185 and for £5 were relatively small amounts, and not out of character with Mrs M's usual transaction history, so I don't consider that these payments should have been flagged as unusual by Lloyds. But it isn't in dispute that the £5,000 payment Mrs M made on 15 February 2022 was unusual given that it did trigger the bank's fraud prevention systems and was automatically blocked pending further enquiry. Accordingly, it's just a question of whether the bank went far enough in all the circumstances with that intervention.

After the payment flagged as unusual, Lloyds called Mrs M to discuss the payment. I've listened to that call, Mrs M confirmed the account she was transferring funds to was her own account, Lloyds also read her a short statement about how risky cryptocurrency investments could be, and noted that the FCA had information on its website about cryptocurrency scams. Lloyds then asked the following questions of Mrs M:

- Has she had any contact from online cryptocurrency traders?
- Has she been told to make the payment by a third party or been told not to tell the bank why she was making the payment?
- Has she been contacted by a third party and asked to do anything on her computer or with her internet banking?

Mrs M answered 'no' to all of these questions, so bearing in mind what we now know about what was going on, it appears she was not being entirely honest with Lloyds at this stage.

Mrs M has said that if Lloyds asked more searching questions, then the scam could have been uncovered. And I agree that the questions Lloyds asked were closed 'yes' or 'no' questions. But I also must bear in mind that Lloyds actions were being guided by the answers Mrs M was giving and her behaviours as a whole. I therefore don't think it's unreasonable that Lloyds took her answers at face value given the lack of any other concerning evidence that might suggest she had been targeted by a scam – for example, there was nothing in the call to indicate that she was under pressure to the extent that Lloyds needed to treat her answers with some degree of scepticism.

I've also thought about whether Lloyds could have done more to recover the funds after Mrs M reported the fraud, as in some circumstances the money can be recovered via the bank raising an indemnity with the receiving bank. However, in these circumstances, Mrs M transferred money to her own accounts with C and M before the funds were subsequently transferred on to the scammer. So while Lloyds had an obligation to notify C and M of what had happened, it wouldn't have the same obligations as the bank responsible for the

eventual transfer to the scammer's account. I also know, from experience of these kinds of cases, that scammers invariably will move the proceeds of their scams on very quickly, to avoid them being recalled. So any delay in a scam being reported, as there was here, means that the prospect of recovery is very slim. With all of this in mind, I don't consider that Lloyds could have done more to recover the money that Mrs M has lost.

Lloyds is also under no obligation to refund the money to Mrs M under the Contingent Reimbursement Model (CRM) Code either, as the Code does not apply to payments which the payer has effectively made to themselves (which would have been the case here given the payments were made to Mrs M's accounts with C and M before being moved on to the scammer).

I appreciate this will likely come as a disappointment to Mrs M, and I'm sorry to hear she has been the victim of a cruel scam. However, I'm not persuaded that Lloyds can fairly or reasonably be held liable for her loss in these circumstances.

### **My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 10 October 2023.

Sophie Mitchell  
**Ombudsman**