

The complaint

Mrs J has complained that Lloyds Bank PLC won't refund the money she lost after falling victim to a scam.

What happened

Mrs J was cold called by scammers claiming to be the police from a different part of the country. They said they'd arrested Mrs J's carer, who had stolen Mrs J's ID and bank cards. Mrs J did not have a carer and had not lost any ID or cards. Mrs J pointed out that she wasn't from that part of the country, so the scammers pretended to transfer her to a more local police department.

The scammers told Mrs J that the person they'd arrested was working with her local bank branch, at a bank I'll refer to as S. They asked Mrs J to join their covert police operation, and persuaded her to withdraw £5,000 in cash from her S branch then read them the serial numbers. They said the cash was fake and sent a courier to collect it, saying they'd reimburse her. The courier had no uniform or identification and said they couldn't show Mrs J their police vehicle as they'd parked some distance away.

The next day, the scammers called again and told Mrs J her local Lloyds branch was corrupt too. They persuaded her to withdraw £8,000 from her Lloyds account and hand it to them. In the branch, Lloyds gave Mrs J written and verbal warnings about scams, noting that scammers may pretend to be the police, the police won't ask you to withdraw money, and that scammers will tell you to lie to staff. They asked Mrs J a series of questions such as whether anyone had asked her to make the withdrawal, whether someone had asked her to report back after, and whether someone was going to collect the cash later. On instructions from the scammers, Mrs J answered "no" to each of those and told Lloyds she was going to gift the cash to family. Lloyds let the withdrawal go ahead.

Lloyds didn't think they were liable for Mrs J's loss. She came to our service.

Our investigator looked into things independently and didn't uphold the complaint. Mrs J's representatives didn't agree, so the complaint'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 understand that Mrs J fell victim to a scam, and so she has my sympathy. I appreciate this can't have been an easy time for her, and I appreciate why she feels that her money should be returned. It's worth keeping in mind that it's the scammers who are primarily responsible for what happened, and who really owe Mrs J her money back. But I can only consider what Lloyds did. Having carefully considered everything that both sides have said and provided, I can't fairly hold Lloyds liable for Mrs J's loss. I'll explain why.

It's not in dispute that Mrs J authorised the withdrawal. So although she didn't intend for the money to end up with scammers, under the Payment Services Regulations she is liable for the loss in the first instance. And broadly speaking, Lloyds had an obligation to follow her instructions – the starting position in law is that banks are expected to process payments that a customer authorises them to make.

Lloyds should have been on the lookout for payments which could be the result of fraud or scams, to help prevent them. But I also accept that a balance must be struck between identifying and responding to potentially fraudulent payments, and ensuring there's minimal disruption to legitimate payments. I've thought carefully about whether Lloyds should have done more in Mrs J's case.

Here, Lloyds did make person-to-person enquiries about this withdrawal, giving Mrs J written and verbal warnings about scams and asking about this payment. While the questions they asked were closed rather than open, they were relevant questions, they drew Mrs J's attention to this type of scam, and Mrs J misled the bank. So it's hard to say that Lloyds were significantly at fault here.

Further, even if Lloyds *had* asked further open questions about the withdrawal, I think it's more likely than not that Mrs J would've still gone ahead with it. S had also talked to Mrs J about scams the previous day and asked her some relevant questions, and she misled them too. She maintained her story across rounds of warnings and questioning with two different banks, even when Lloyds drew her attention to this very type of scam and asked clear, relevant questions, and even after having time to sleep on it and reconsider the situation after her initial withdrawal from S. She promised the scammers not to tell her banks the truth. And there's nothing I've seen which suggests she was open to being persuaded by Lloyds. With all this in mind, I can't reasonably conclude that Mrs J would've changed tack with further questioning. And even with further questioning, if Mrs J was simply adamant that she preferred to gift the money in cash then there wasn't much more Lloyds could reasonably do. Neither bank's branch staff found anything concerningly suspicious, and it doesn't look like Lloyds had a sufficient enough basis on which to call the police on her.

I should also explain that even if I thought further intervention would have most likely made a difference, I still don't think I could fairly hold Lloyds liable for the loss in this case. Mrs J was told inconsistent and highly implausible things by the scammers, and she didn't take any reasonable actions to check what she was being told. She was given scam warnings and was asked relevant questions by two banks, but misled them both. I can't see that Mrs J had any reasonable basis to believe what she was being told, whereas some of the things the scammers told her should have reasonably alerted her to the fact that they weren't who they said they were. By disregarding all these signs and handing over her money to unidentified strangers in the way she did, Mrs J failed to do what a reasonable person would be expected to, and acted with serious disregard to obvious risks. I'm afraid that Mrs J's actions here were negligent to such a degree that it seems unfair to hold Lloyds liable at all.

I've considered what Lloyds did to try to recover Mrs J's money after she told Lloyds about the scam. Unfortunately, because Mrs J withdrew the money in cash and handed it to someone, there's nothing more Lloyds could do to recover it. I hope that the authorities are able to apprehend the scammers and recover Mrs J's money.

Lastly, Mrs J's representatives referred to another case, and I understand why they thought to do so. As they know, we look at each case on its individual merits. And this case has substantial differences to the one they quoted. For example, here Mrs J was significantly younger, she gave over a different story, she didn't take any reasonable actions to check what the scammers told her, it's clearer what the banks discussed with her and that they reasonably drew her attention to this type of scam, and so on.

So while I'm very sorry to hear about what happened to Mrs J, I don't think Lloyds should be held responsible for her loss. And so I can't fairly tell Lloyds to refund Mrs J's money in this case. This is a difficult message for me to give, and I know it's a difficult message for Mrs J to receive. But given the evidence at hand and the circumstances of this case, I'm unable to reasonably come to another conclusion.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 20 November 2023.

Adam Charles
Ombudsman