

## The complaint

Mr M complains that Lloyds Bank PLC won't refund the money he lost when he was the victim of what he feels was a scam.

## What happened

A number of years ago, Mr M came across a local property investment company. He says he got to know people connected to the company and then started investing with it. For several years, he would invest an amount with the company, and receive his original investment and an agreed amount of interest back at the end of the agreed term. Mr M would then re-invest his original investment amount again the following year, with his most recent investment with the company being in March 2018, as below:

Date	Amount
21 March 2018	£150,000

Unfortunately, the investment company went into administration before the end of the agreed term of Mr M's most recent investment, and he says he has lost the money he invested. He then reported the payment he made in March 2018 to Lloyds as a scam, and asked it to refund the money he had lost.

Lloyds investigated but said Mr M had a personal relationship with the property investment company and previous investments with it. So it felt this was a legitimate investment opportunity which had suffered financial difficulties, rather than a scam. And it didn't agree to refund the payment Mr M had made. Mr M wasn't satisfied with Lloyds' response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think Lloyds had done anything wrong in allowing the payment to be processed, as they didn't think any of the available evidence at the time would've caused it concern that Mr M was falling victim to a scam. Mr M disagreed with our investigator, so the complaint has been passed to me.

## 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.

Lloyds has argued that the investment company Mr M made the payments to wasn't operating a scam, and so it isn't responsible for refunding the money he lost. But, even if this was a scam, I don't think it would be fair and reasonable to require Lloyds to refund the payment Mr M made here. I'll explain why below.

Banks are expected to make payments in line with their customers' instructions. And Mr M accepts he made the payment here. So while I recognise he now feels he has been the victim of a scam, he did authorise the payment. And so the starting position in law is that Lloyds was obliged to follow his instruction and make the payment. So Mr M isn't automatically entitled to a refund.

However, the regulatory landscape, along with good industry practice, sets out requirements for banks to protect their customers from fraud and financial harm. So, in line with this, I think Lloyds should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

But even if Lloyds had identified that Mr M was potentially at risk of financial harm as a result of the payment he made to the investment company in March 2018, and carried out the level of checks we would expect it to have done to address this risk, I don't think it would have uncovered significant concerns.

In these circumstances and given the size of the payment Mr M was making, I think it would be reasonable to expect Lloyds' checks to include questions about the purpose of the payment and then relevant follow-up questions about the investment Mr M thought he was making and what checks he had done to satisfy himself it was genuine.

Mr M thought he was providing a loan to the property investment company, where he would provide capital and the company would pay him interest each year and return his capital at the end of the loan term. And as this is a fairly standard format of investment, I don't think this will have seemed particularly suspicious to Lloyds.

Mr M had also carried out similar investments with the investment company for a number of previous years, which had all been completed successfully with Mr M receiving both his capital back and the interest he was told he would receive. So I think this will have reassured Lloyds that the company Mr M was investing with was genuine and the returns he was told he would receive weren't too good to be true.

At the time, the investment company had been listed on the government's register of limited companies and filed accounts for a number of years. And I wouldn't necessarily expect this of a company intending to operate a scam. So, if Lloyds had suggested Mr M check this when it asked about the payment, I think this would also have reassured both Mr M and Lloyds that the investment company was genuine.

Mr M has also sent us a copy of the loan agreement he entered into with the investment company. And I think this looked relatively professional and legitimate. So, if Lloyds had asked to see any paperwork associated with the investment, Mr M would have been able to provide this and I don't think it would have caused Lloyds any concern.

And so if Lloyds had carried out the checks I would've expected when Mr M tried to make this payment, I think it would have been satisfied with the information it was given and I don't think anything it was told or shown would've caused it significant concern. Based on the information I would have expected it to uncover at the time, I think this would have looked

like a genuine investment to Lloyds. And so I wouldn't have expected it to stop Mr M making the payment.

During this complaint, Mr M has referred to information about the investment company uncovered by him, other people who invested with the company, insolvency companies or the police, which he feels shows irregularities with how the company was conducting its business. But this information has only come to light since the payment he made, and wouldn't have been available to either him or Lloyds at the time. I also wouldn't have expected Lloyds's checks to go into the level of detail necessary to uncover this kind of information, as the information it would've been given from the checks I would've expected it to do wouldn't have uncovered any significant concerns. So I don't think this information Mr M has referred to means Lloyds acted unreasonably in allowing the payment to go through.

Mr M has also mentioned that the investment company is currently being investigated by the police. But the outcome of this investigation, or of any subsequent action taken against the company or any person connected to it, is not yet known. And even if it later becomes clear that Mr M was the victim of a scam, as I have explained above, I don't think this could have been uncovered by either him or Lloyds at the time. So the payment would still have been made and the money would have been sent to the investment company.

I appreciate that this payment was a significant amount of money for Mr M and I sympathise with the position he has found himself in. I'm also in no way saying he did anything wrong himself or that he doesn't have a legitimate grievance against the property investment company. But I can only look at Lloyds' responsibilities and, for the reasons I've set out above, I don't think Lloyds acted unreasonably in allowing the payment Mr M made to go through or that anything I would reasonably have expected it to have done would have stopped him sending money to the investment company. I therefore don't think it would be fair to require Lloyds to refund the payment Mr M made.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 24 April 2024.

Alan Millward  
**Ombudsman**