

The complaint

Mr K complains that Lloyds Bank PLC (Lloyds) wouldn't refund money he lost in a scam.

What happened

What Mr K says:

Mr K is represented by a third-party claims firm, but I will refer to him as the complainant here.

Mr K had a savings and current account with Lloyds. In March 2022, Mr K was contacted on Facebook by someone purporting to be an old school friend. He had been in frequent touch with his friend over the years. But it turned out that his 'friend' was in fact now a scammer who had hacked into his real friend's Facebook account. Mr K thought he was in touch with his friend, and the scammer even used his nickname – which tricked Mr K into thinking he was in touch with his real friend.

The scammer gave Mr K the contact and profile of someone who was then put in contact with Mr K. This person messaged Mr K and said he worked as an agent for the 'Social Security Administration in America for the Federal Government'. The scammer said Mr K qualified for a grant and gave him a reference number and a batch number. Mr K checked the scammer's profile and the department concerned and they seemed genuine. He messaged his 'friend' on Facebook who also confirmed it to be genuine.

The scammer said the grant was for £250,000 and would be sent in a cheque. But to get this, Mr K had to send £2,400 to clear the cheque. The scammer said the money had to be sent in cash to an address in the UK, and to a different, named person. Mr K withdrew the money and sent it.

Two days later, the scammer said the cheque would be increased to £500,000 if Mr K sent a further £6,000 to the same address. Mr K was wary and said he didn't want to do this but at the insistence of the scammer, he withdrew cash of £6,000 and sent it.

Mr K's said the scammer then said further amounts of £9,500; £5,000 and then £20,000 were needed to pay 'customs fees' – as the cheque had been held up at customs. Mr K says he withdrew these amounts and sent the cash to the address in the UK.

Then, when a further amount of £3,000 was asked for, Mr K became suspicious. He phoned his real friend – who knew nothing about it. Mr K realised he had been scammed.

The withdrawals were:

Date	Amount
1. 16 March 2022	£2,400 (Cash withdrawal from savings account)

2. 18 March 2022	£6,000 (Cash withdrawal from savings account)
(23 March 2022)	£9,500 transfer to current account
3. 28 March 2022	£5,000 (Cash withdrawal from savings account)
4. 31 March 2022	£20,000 (Cash withdrawal from savings account)
Total cash withdrawn	£33,400 (excluding £9,500 transfer to current account)

Mr K says the scam was for £42,900. The last amount of £3,000 wasn't paid.

Mr K says he was vulnerable to such a scam at the time. He had taken early retirement in 2020 due to ill-health. He felt isolated during and after the pandemic and lived alone. He said he withdrew most of the money from his company pension fund and was now left with a much smaller pension, in addition to his state pension. He was now in financial difficulty and finding it difficult to make ends meet. He was now suffering from low self-esteem and depression because of what happened.

He says the branch should've done more to protect him when he made the cash withdrawals. He says they didn't ask him more about what the withdrawals were for, nor had they taken him into a separate room to speak to him. He made the withdrawals at the general counter. He says Lloyds should've done more to protect him and should therefore refund the money.

What Lloyds say:

Lloyds said the amount of £9,500 was a transfer into Mr K's current account and he then made a cheque payable to a relative for the same amount – so this wasn't considered part of the scam.

Lloyds said the payments were outside Mr K's normal spending pattern – but he had given them false reasons for the withdrawals. He told Lloyds the cash was for his family, and on another occasion for a car for his daughter. On the second, third and fourth cash withdrawals, Lloyds read out the branch's high value checklist which included the wording '*Have you been told to lie to the bank about reason for payment or told your money is at risk? Only a fraudster would say this*'. If Mr K had told the branch the true reasons for the withdrawals, the scam may well have been prevented.

Lloyds said the story that Mr K would get a grant of £250,000 or £500,000 was too good to be true. And for someone to say a UK citizen would get money from Social Security Administration in the USA is a clear 'red flag' which Mr K should've seen. He also didn't get any paperwork to say he was entitled to the money. He sent the cash to another, different named person in the UK – another sign that something wasn't right.

Lloyds said the Contingency Reimbursement Model Code (CRM Code) didn't apply as it doesn't cover cash withdrawals. They didn't refund the money.

Our investigation so far:

Mr K brought his complaint to us. Our investigator agreed the claim was for £33,400 – excluding the cheque for £9,500. She could see the branch had questioned Mr K about the withdrawals of £20,000, £6,000, and £5,000. But only the high value checklist for the £20,000 withdrawal could be evidenced. She was satisfied that from the branch records and

testimonies from staff – that Mr K told Lloyds the money was for family purposes. It was also shown that Mr K was given a fraud leaflet at the time. She could see that the branch manager spoke to Mr K about the last withdrawal of £20,000.

She considered that Lloyds did all they could to ask the right questions of Mr K – but unfortunately, it looked like Mr K wasn't honest when he replied to their questions about the withdrawals. So – she didn't think Lloyds should refund the money.

Mr K didn't accept this. He said the branch should've taken him into a separate room and insisted on asking more questions but didn't. He said that an older person shouldn't be allowed to withdraw such large amounts of cash without sufficient questioning. The branch staff should've been aware he wasn't telling the truth – as they were professionals and trained as such.

Mr K asked that an ombudsman look at his complaint. So – it has come to me to do that. I contacted Lloyds to explain why this complaint should be upheld in part but Lloyds didn't agree so I'm issuing this provisional decision.

I issued a provisional decision which said:

I'm sorry that Mr K has lost money in a cruel scam – and it's money he can't afford to lose, and at a difficult time in his life. But this doesn't automatically mean that Lloyds should refund him. I can only ask Lloyds to do so if I think they should have done more to protect him when he made the four cash withdrawals. The amount of Mr K's claim is for the total cash withdrawals of £33,400 – as the amount of £9,500 was transferred to his current account and a cheque made payable to a family member.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case. But that is not the end of the story. Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider 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 make 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.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) doesn't apply in this case. That is because it doesn't cover cash withdrawals.

I need to decide whether Lloyds acted fairly and reasonably in its dealings with Mr K when he made the withdrawals, or whether they should have done more than they did. I have considered the position carefully.

I've looked at Mr K's savings account statements – which was where the cash was withdrawn from. The maximum withdrawal during the six months leading up to March 2022 (when the scam took place) was one for £400 – and the only withdrawals were transfers to his current account, rather than cash. So – it is fair to say that the withdrawals of large amounts of cash were unusual for Mr K. Therefore, Lloyds were right to intervene and ask questions of him – which is what they did.

So – the crux of Mr K's complaint comes down to what questions Lloyds asked, and what they were told by Mr K – and were these reasonable in the circumstances of what happened. Lloyds told us that their processes are that a customer should be asked questions about potential scams for withdrawals of over £5,000. The process is called 'High Value Checklist' ('HVC').

I've seen Lloyds' records and these confirm that HVC's were completed for the second, third and fourth withdrawals (i.e. £6,000, £5,000, and £20,000). Lloyds can only show us a copy of the one for £20,000. This includes the questions asked of Mr K at the time – including handing over Lloyds' scams leaflet. The questions asked included:

- *Did you read anything in the leaflet that matches why you've come into the branch today?* (Answer: no)
- *Is someone waiting for you nearby to hand them cash. Do you have to tell someone how your visit here went, either in person or on the phone?* (Answer: no)
- *Are you paying someone you know, like a friend or family?* (Answer: yes)
- *Are you paying someone you've met online but have not met in person?* (Answer: no)
- *What is the transaction for?...*(help family out? Fraudsters may have told the customer to give certain responses.)

So - the HVC said Mr K told the manager he was paying 'friends and family'.

The manager signed off to say he read out the statement "*We've talked about scams. Are you confident you now know enough to spot a scam? Would you like to double check anything or are you sure this isn't a scam and want to go ahead?...if you pay and it is a scam there's a good chance you could lose your cash. People who scam can be very clever and trick you...*".

Lloyds took testimonies from members of staff when they investigated Mr K's complaint. The manager can't recall any more information about the £20,000 withdrawal. But another member of staff recalled the one for £6,000 – and Mr K said the cash was for his daughter to buy a car.

I've considered each cash withdrawal and what I think should have happened separately below.

16 March 2022 - £2,400: this first withdrawal wasn't subject to Lloyds' HVC process. And therefore, there wasn't any reason for Lloyds to question this transaction.

18 March 2022 - £6,000: This was unusual compared to Mr K's normal account activity. Lloyds did question the reason for the withdrawal and were given a legitimate reason – according to the staff testimony. A HVC was completed – although we've not seen a copy of it. But – as this was the first high value withdrawal and savings accounts are often used for one off high value transactions, I'm persuaded that it was reasonable for it to have been allowed.

28 March 2022 - £5,000: Here, I don't think Lloyds have been able to demonstrate they did enough to protect Mr K. We haven't seen a copy of the HVC or evidence of Mr K's answers. The withdrawal was not consistent with prior account activity and - given the previous two withdrawals of £2,400 and £6,000 - ought reasonably to have caused concern. I also note that the HVC for other payments refers to asking for additional information if the reason for the payment can't be evidenced. I haven't been provided with any such additional evidence.

I think it's unlikely Mr K would have been able to provide another plausible reason for a third high value withdrawal. So I think if Lloyds had asked the kind of questions it should have it's more likely than not the payment wouldn't have been made either because the scam was uncovered or Lloyds had sufficient concerns not to allow it.

31 March 2022 - £20,000: This almost drained the account of remaining funds. Between 16 March 2022 and 31 March 2022, the balance of £43,297 had been withdrawn.

I think the bank should've asked more probing questions and not taken what Mr K said at face value. The HVC form records Mr K said he was paying friends and family – but that was also the reason given for the prior withdrawal of £6,000. Lloyds could've asked - why did the family members want the (further) cash, for example? There is no information to suggest that Mr K gave a plausible reason for such a significant cash withdrawal or provided any evidence in support. I think the circumstances of this withdrawal – especially in view of the prior ones, and the draining of the account – suggests that the bank should've asked more questions. But the HVC form doesn't show this was done. The HVC form was reviewed by the manager, but he can't recall any further details - so we don't have sufficient evidence to say that Lloyds did enough.

Lloyds have said to us that even if they'd asked more questions about the reasons for the withdrawals, there's no evidence to suggest that Mr K would not have made them – that he would've stuck to his story. I accept this is subjective – but I think it's more likely than not that Lloyds would've uncovered the flaws in a scheme that promised such a high return and/or asked why his family members needed so much support in such a short space of time.

Therefore, my view is that Lloyds should've asked more questions of Mr K about the withdrawals of £5,000 and £20,000. And had they done so the scam would've been uncovered and I think it is unlikely that Mr K would've made the further payments.

But on the other hand, I think it's reasonable for me to say that Mr K could've done more to protect himself – and ask more questions about the scheme. I say this as:

- He was approached via social media. This is a common approach for a scammer to take.
- He appears to have been told to lie to his bank about the true reason for the withdrawals.
- He was prepared to send the cash in envelopes to a named recipient – who was a different person to the named representative he had been introduced to; and to a UK address when the scam was about sending money to the USA.
- He did that without seeing anything in writing about the scam, or its benefits, or confirming that he would receive the money.
- He believed he could get between £250,000 and £500,000 for an investment of £33,400 – even though it was clearly too good to be true.

Because of this, I think Mr K should bear a share of 50% of the withdrawals of £5,000 and £20,000.

My provisional decision is therefore that Lloyds should refund 50% of £25,000, plus interest at the savings account rate from the time of the withdrawals to the date of settlement.

Responses to the provisional decision:

Mr K agreed with it. Lloyds accepted the findings.

I now need to make 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.

As both Mr K and Lloyds agreed with the provisional decision, my final decision is in line with it.

My final decision

I uphold this complaint. Lloyds Bank PLC must:

- Refund £12,500, plus interest at the savings account rate from the time of the withdrawals to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 8 August 2023.

Martin Lord
Ombudsman