

The complaint

Mr O complains that Lloyds Bank PLC won't refund him the money he lost after he fell victim to an authorised push payment (APP) scam.

What happened

The background to this complaint is well known to both parties, so I won't repeat it all in detail here. But in summary, I understand it to be as follows.

In or around March 2023, Mr O was contacted out of the blue, through a well-known instant messaging service, about a home-based job opportunity. The job involved completing online tasks for companies, to boost products on sale. Mr O was told he could earn c. £450 per week through commission and it would need him to spare 1-2 hours of his time every day.

Mr O has said he was sent a link to create an account, with what appears to be a software solutions company. He's said he looked at the website and it seemed well done and he could see the company, who he had created the account with, was registered with Companies House. Mr O added that the company also had a customer service team, which made him think this was legitimate. Mr O started to do some of the work and as he completed tasks, he's said he could see he was getting bonus points on the account he had set up.

Mr O has said he started to come across more expensive products that needed tasks completing, he was told he would get paid a higher commission for completing these, but that he would need to pay a fee to be able to work these tasks. Believing everything to be genuine Mr O went ahead and made payments to the account details he was provided, which was for a digital wallet. But unknown to Mr O at the time, this was a scam and he was sending money to an account that was controlled by fraudsters.

Between 23 March 2023 and 25 March 2023, Mr O made 5 payments totalling £3,458 from his Lloyds account. Mr O realised he'd been scammed when the amount of money he was being asked to pay was increasing and he was told if he didn't pay he would lose all of his money.

Mr O has explained that he wasn't concerned about things such as the scammer contacting him out of the blue with a job opportunity, or not receiving any paperwork such as a contract of employment, because of the things that convinced him above. He said where he saw the deposits he was making appear on the account he'd set up, it made him think this was correct.

Mr O raised the matter with Lloyds. Lloyds is a signatory of the Lending Standards Board's Contingent Reimbursement Model Code (the CRM Code). The CRM Code requires firms to reimburse customers who have been the victims of APP scams in all but a limited number of circumstances. Lloyds issued its final response to Mr O in May 2023, not upholding his complaint. In summary, it didn't consider Mr O had a reasonable basis to believe this was genuine. It added that it didn't consider the payments Mr O had made were unusual and so it didn't consider there was any reason for it to intervene. Lloyds did contact the beneficiary

bank (the bank to which the payments were made) to try and recover the money Mr O had sent, but unfortunately no funds remained.

Unhappy with Lloyds response, Mr O referred his complaint to this service. One of our Investigator's looked into things, but didn't uphold the complaint. In summary, it was our Investigators view that there was enough going on that Mr O should have had some concerns about the transactions he was about to make. She also didn't think it would have been apparent to Lloyds that there was a scam risk, so she didn't think it needed to warn or contact Mr O ahead of him making the payments.

Mr O didn't agree with our Investigators view. As agreement couldn't be reached the complaint has been passed to me for 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.

I'm very 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. 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.

I'm aware in his submissions Mr O has referred to another complaint he had against a different payment service provider, who he'd also made payments to as part of this scam. But I would point out that, while on the surface things may seem quite similar, each complaint is determined by its own individual circumstances. Here, as I'm required to do, I've looked at the individual circumstances of Mr O's complaint against Lloyds.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

To begin with, Lloyds has a primary obligation to carry out the payment instructions its customers give it. As a starting point, a customer will therefore be assumed to be liable for payments they have instructed to be made. There is no dispute that Mr O authorised these payments, albeit having been deceived into believing he was sending them for the purpose of a job opportunity. On the face of it, he is therefore liable for the resultant losses.

However, of particular relevance here, the CRM Code says that the victim of an APP scam such as this should be reimbursed unless the bank is able to establish that one (or more) of the limited exceptions to reimbursement can be applied.

Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that*:

- The customer ignored what the CRM Code refers to as an "Effective Warning" by failing to take appropriate action in response to such an effective warning.
- The customer made payments without having a reasonable basis for believing that: the payee was the person the Customer was expecting to pay; the payment was for

genuine goods or services; and/or the person or business with whom they transacted was legitimate.

**Further exceptions outlined in the CRM Code do not apply to this case.*

I think Lloyds has been able to establish that it may choose not to reimburse Mr O under the terms of the CRM Code. I'm persuaded one of the listed exceptions to reimbursement under the provisions of the CRM Code applies.

Did Mr O have a reasonable basis of belief?

I've thought about what Mr O has told us happened, and the reasons Lloyds say Mr O didn't have a reasonable basis for belief for proceeding with the payments or that the person (employer) he was dealing with was legitimate.

Based on everything I've seen and been told; I'm not satisfied Mr O did have a reasonable basis for belief. I think there are several concerning factors here that ought to have made Mr O cautious and led him to complete more extensive research before making the payments he did. I'll explain why;

- The scammer contacted Mr O out of the blue. This is an unusual way of securing a legitimate employment opportunity, and I have to question why Mr O wasn't concerned about how the scammer had obtained his contact details from a database, that he doesn't recall entering his details onto.
- Mr O wasn't provided with, nor from what I've seen did he ask for, any documentation and didn't receive an employment contract to show what was agreed between the parties. I appreciate Mr O has said not all jobs have contracts, but in the circumstances where Mr O is being asked to make payments to secure work, I think it would have been prudent to have something more formalised to give him comfort that he would be receiving his money back/commission as promised.
- Mr O has said that he was told he could earn c £450 per week, or between \$10,000 - \$20,000 and would only need to surrender a small number of hours of his time per day. I think that Mr O ought reasonably to have had concerns about the strong additional income he was being offered to complete basic tasks. I think this level of income, seems improbable to the point of being too good to be true.
- I'm also mindful of the fact that Mr O made the payment to an account that was not in the name of the company he believed he was working with.
- While I appreciate Mr O has said the website of the company he was working with appeared genuine. I've not seen anything on this website to suggest the company is involved in the type of work that Mr O was engaging with, which I think reasonably ought to have led Mr O to question whether things were all as they seemed.
- I haven't been given a reasonable explanation for the need to pay money over in order to earn money. Albeit the initial payments started lower, I think Mr O ought to have had concerns ahead of making any of the payments he did. I don't think a legitimate company would require somebody to make any upfront payments, but Mr O has proceeded to pay money over anyway without completing sufficient independent checks, and I don't think that was reasonable.

I'm mindful that any of these individual factors in isolation may not have been enough to have prevented Mr O from proceeding. But considering the specific circumstances of this case and the factors in the round, on balance, I think that there was enough going on and sufficient red flags that Mr O ought reasonably to have taken further steps to protect himself.

I've gone on to think about whether Lloyds did enough to protect Mr O from financial harm. As mentioned, the CRM Code says that where firms identify APP scam risks, they should provide effective warnings to their customers.

I am also mindful that, when Mr O made these payments, Lloyds should fairly and reasonably 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). But in the circumstances of this case, I'm not persuaded the payments Mr O made to the fraudsters were such that Lloyds ought to have been on notice that he might have been at risk of financial harm from fraud. So, I'm satisfied Lloyds needn't have identified a scam risk and in turn did not need to provide an effective warning or question the payments before processing them.

Finally, I've considered whether Lloyds did all it could to try and recover the money Mr O lost, once he had reported the scam to it. From the evidence I've seen, Lloyds did contact the receiving bank when the matter was raised, but unfortunately the receiving bank reported that no funds remained, indicating the funds had been moved on straight away. So, I think Lloyds has done what could reasonably have been expected to and I don't think it has missed an opportunity to recover the money Mr O has sadly lost.

All things considered, I don't find that Lloyds is liable to refund Mr O under the terms of the CRM Code. In saying this, I want to stress that I am very sorry to hear about what happened to Mr O and I am sorry he has lost out here. He was the victim of a cruel scam designed to defraud him of his money. I appreciate that he's lost a significant amount because of what happened.

But I can only look at what Lloyds was and is required to do and I'm not persuaded that Lloyds is required to refund him under the CRM Code, nor that the bank was at fault in making the payments Mr O had instructed it to make or for any other reason.

My final decision

My final decision is that I don't uphold this complaint against Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 17 January 2024.

Stephen Wise
Ombudsman