

The complaint

Miss Z complains that Lloyds Bank PLC ("Lloyds") have failed to refund the money she lost as part of an investment scam.

What happened

The details of this complaint are well known to both parties, so I will not repeat everything again here. Instead, I will focus on giving the reasons for my decision.

In summary though, Miss Z was contacted by someone on a well-known photograph based social media platform who I will call B. After a few weeks of chatting, B introduced Miss Z to a Crypto investment platform. Miss Z made the following transactions to two Crypto exchanges which were then forwarded on to the scammer.

Transaction	Date	Merchant	Amount	Method
1	28/07/2022	Coinbase	£821.51	Debit Card
2	29/07/2022	Foris Dax MT Limited	£100	Faster Payment
3	29/07/2022	Foris Dax MT Limited	£14,000	Faster Payment
4	05/08/2022	Foris Dax	£15,000	Faster Payment
5	08/08/2022	Foris Dax	-£400 credit	Credit
6	09/08/2022	Foris Dax	£14,000	Faster Payment

After some back and forth Miss Z realised she had been scammed.

Miss Z asked Lloyds to refund these payments as she believes Lloyds should have done more to prevent her from being scammed. Lloyds did not agree with this.

One of our investigators looked into this matter and she thought that Lloyds had provided sufficient warnings about the payments and therefore Lloyds did not have to offer a refund. Miss Z did not agree with this and therefore her complaint has been passed to me to issue 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 for the following reasons.

It isn't in dispute that Miss Z authorised the disputed payments she made from her Lloyds account. The payments were requested by her using her legitimate security credentials provided by Lloyds, and the starting position is that Lloyds ought to follow the instructions given by its customers in order for legitimate payments to be made as instructed.

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

Miss Z has argued that the first two payments were unusual and should have been flagged by Lloyds but I don't agree. There is a balance to be struck. Banks and building societies have obligations to be alert to fraud and scams and to act in their customers' best interests. But they can't reasonably be involved in every transaction, nor can it reasonably be expected to review every payment being made to a new payee. I don't think it reasonable to challenge every payment made to crypto exchanges. I only think intervention was merited once a pattern emerged and the transactions became larger. This point I think was transaction 3.

It's common ground that the payments 3, 4 and 6 that Miss Z made were unusual given that they did trigger Lloyds's fraud prevention systems and were automatically blocked pending further enquiry. Accordingly, it's just a question of whether Lloyds went far enough in all the circumstances with the interventions it carried out.

After the payment were flagged as unusual, Lloyds says it asked Miss Z to confirm the payment was genuine. I have listened to the calls that were made. Amongst other things, Miss Z was asked if she was using a third party broker or following anyone else's advice. Miss Z confirmed that she was not. She confirmed that she was acting on her own and had decided to purchase crypto currency. This is despite the fact that Miss Z had clearly been given advice by B and was being told exactly what to do trading wise. Additionally, Miss Z was asked if anybody had told her to lie to Lloyds about the transactions, Miss Z confirmed that she had not been, but I can see that she was told by B what to say to certain questions that Lloyds may ask.

I note Miss Z's comments that she was nervous during the calls in question, but I don't think that her tone sounded this way in the calls. So I don't think it was sufficient for Lloyds to have picked up on this.

Overall, having listened to all the calls, I am satisfied that Miss Z was asked proportionately probing questions and I don't think Lloyds needed to ask anything further given the answers Miss Z gave. I also should add that given the way she answered the questions and the interactions she was having with B at the time, I don't think that any further intervention would likely have altered Miss Z's decision to carry out the transactions. She seemed completely convinced at the time that what she was doing was genuine.

Also due to the coaching that Miss Z was given by B, she was giving persuasive answers to questions asked. So, I don't think any further intervention from Lloyds would have put off Miss Z from making the payments. Because of this, I don't think it would be appropriate to tell Lloyds to reimburse Miss Z for the unfortunate loss that she suffered.

I've also thought about whether Lloyds could have done more to recover the funds after Miss Z reported the fraud, as in some circumstances the money can be recovered. However, in these circumstances, Miss Z transferred money to a crypto exchange before it appears that the funds were subsequently transferred on to the scammer. As a result, no funds would have remained for Lloyds to recover, so I don't think there was anything further Lloyds could have done to recover the funds by that point in time.

Lloyds are also under no obligation to refund the money to Miss Z under the Contingent Reimbursement Model (CRM) Code either. This is because the Code does not apply to transfers which the payer has effectively made to themselves.

Miss Z has raised some additional points including ways she feels that Lloyds should improve its fraud procedures. She has also explained that having to wait on hold to make a call means that by the time she was able to speak to Lloyds, she just wanted the payment to be made. I have considered all of the points that she has raised. But ultimately, I am satisfied that Lloyds did enough to intervene during the transactions and that any further intervention would most likely not have been successful, due to how persuasive the scammer was. Also, there was no further recourse for Lloyds to recover the funds by other means after the scam. So, I'm not persuaded that Lloyds can fairly or reasonably be held liable for her loss in these circumstances.

I appreciate this will come as a disappointment to Miss Z, and I'm sorry to hear that she has been the victim of a cruel scam. But I can't uphold this complaint for the reasons set out above.

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 Miss Z to accept or reject my decision before 10 January 2024.

Charlie Newton
Ombudsman