

The complaint

Mr B and Mrs B complain that Lloyds Bank PLC (Lloyds) won't refund money they lost in a scam.

What happened

What Mr B and Mrs B say:

In April 2023, Mr B got a phone call from a 'police officer' to say they'd arrested someone who had stolen Mr B's debit card. They asked Mr B to withdraw £7,000 for it to be investigated for money laundering/fraud. Mr B visited a branch of Lloyds and withdrew £7,000. The 'police officer' visited his house and Mr B handed over the money. He later got a further call from the 'police' who said that 60% of the money had been so used and asked him to transfer another £24,000 for the same purpose. When Lloyds blocked the payment and called him, he asked Lloyds not to make it - as he then realised this was part of a scam.

Mr B said the 'police officer' knew the balance of his account and told him how to answer the bank's questions. The lost money was:

Date	Withdrawal	Amount
17 April 2023	Cash from branch	£7,000
17 April 2023	Online payment	£24,000 (stopped)

Mr B says Lloyds should've protected him when he made the cash withdrawal. He said when he visited the branch, it was busy. The cashier didn't ask him any questions, didn't provide scam warnings in any detail, and pushed a leaflet on scams under the security glass. He said she didn't read out any scam disclaimers. He says Lloyds should've done more and should refund the money.

What Lloyds said:

Lloyds didn't uphold Mr B and Mrs B's complaint. They said the voluntary industry code called the Contingent Reimbursement Model (CRM) didn't apply – as it didn't cover cash withdrawals. When Mr B spoke to the 'police officer', he still had his debit card – so he must have realised it hadn't been stolen. They said Mr B should've confirmed the identity of the police officers he spoke to but didn't.

Lloyds had spoken to the member of staff who served Mr B. She said she recalled the transaction and discussed it as being unusual. She recalled Mr B's story - that he had sold their house and wanted to buy his wife a new car, and it was a certain make and colour. Lloyds said they asked Mr B if he'd been called by anyone, and he said he hadn't. Later, when he was questioned about the online payment for £24,000, he admitted he had been called by someone.

Our investigation so far:

Mr B and Mrs B brought their complaint to us. Our investigator didn't uphold it. She considered it was most likely the branch staff did ask sufficient questions about the withdrawal, and therefore didn't uphold the complaint.

Mr B and Mrs B asked that an ombudsman look at their complaint, and so it has come to me 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.

I'm sorry to hear that Mr B and Mrs B have lost money in a cruel scam. It's not in question that Mr B authorised and consented to the cash withdrawal in this case. So although Mr B and Mrs B didn't intend for the money to go to a scammer, they are presumed to be liable for the loss in the first instance.

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 applies to faster payments made to a UK beneficiary – and in this case, the withdrawal was in cash and handed to the scammer.

I need to decide whether Lloyds acted fairly and reasonably in its dealings with Mr B and Mrs B when they made the withdrawal or whether it should have done more than it did. I have considered the position carefully.

If the payments were of a sufficient size and were out of character with how Mr B and Mrs B normally used the account – then we would expect Lloyds to have intervened and spoken to Mr B about it.

I looked at Mr B and Mrs B's account, and it's reasonable to say that the cash withdrawal of £7,000 was unusual. The account was used for day-to-day expenses and receipt of a regular pension payment. The average balance was around £300 credit – until a large credit of

£88,853 was received in March 2023 – I presume this was the sale proceeds of the house sale. There were then two payments of £10,242 and £10,465 on 3 April 2023. But it's fair to say that the cash withdrawal of £7,000 was unusual. And therefore, Lloyds should've questioned it.

And I've seen that Lloyds did ask Mr B questions in the branch. We asked Lloyds for their version of the visit. They provided the branch testimony – which said:

- Mr B said they'd sold their property and bought a new one, hence the high balance on the account.
- When they moved, Mr B promised his wife a new car, and the cash was for that purpose.
- He was asked if Mr B had got a call from someone claiming to be the police and he said no, he hadn't.
- Mr B was given a fraud leaflet and scams warnings were read out, with disclaimers.
- Mr B was relaxed and laughed at one point.
- Mr B was adamant it wasn't a scam and went on to describe the work they were carrying out on the new house.

I can see that Mr B doesn't agree with this – he says the branch was busy; the leaflet was pushed at him; and no scam warnings or disclaimers were read out. And Mr B has told us he'd been coached how to respond to the bank's questions.

So here, I must decide what, on the balance of probability, what likely happened. And the important point here is that the branch testimony, from the named cashier – is dated 11 May 2023. So – it is very soon after the withdrawal on 17 April 2023 (just over three weeks). So – I place a good deal of credibility on it and am persuaded that it is a fair and accurate version of what was said and what happened.

Therefore, on balance, I'm persuaded that Lloyds did what they needed to make Mr B aware of the risks he was undertaking, asked him sufficient questions and provided enough warnings.

Recovery:

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place.

I looked at whether Lloyds took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money. In this case, this wasn't possible – as Mr B handed the cash to the scammers, so Lloyds wouldn't have been able to trace the funds through the banking network or contact a recipient bank.

In summary, I'm sorry Mr B and Mrs B have had to contact us in these circumstances. I accept they've been the victim of a cruel scam, but I can't reasonably hold Lloyds responsible for their loss here.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 8 January 2024.

Martin Lord
Ombudsman