

The complaint

Mr J complains that Lloyds Bank PLC ('Lloyds') won't refund him after he fell victim to a scam.

What happened

Mr J says that he received a call from someone claiming to be from a company I'll refer to as T in this decision. The representative of T said that T placed bets on horse races and Mr J could earn profit of 20 to 40% a month. Mr J started with small payments but received monthly statements and regular contact about how his investment was performing which led him to increase the amounts he paid. I have set out the payments Mr J made in the table below:

Date	Amount
27/01/21	£200
09/04/21	£300
10/05/21	£300
03/11/21	£750
07/12/21	£2,500
Total	£4,050

Mr J says that on the days' bets were placed he would receive information on a messaging app, including an update at the end of the day.

Mr J realised he was the victim of a scam when he was given excuses about why he couldn't withdraw funds and then T's website disappeared, and he was unable to make contact. He reported the scam to Lloyds in mid-January 2023.

Lloyds considered Mr J's claim but didn't agree to provide a refund. It said the payments weren't unusual given Mr J's usual account activity and that Mr J should have taken additional steps like checking the FCA register after being called out of the blue by T.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. She said that the payment requests weren't unusual and that there was enough going on that ought reasonably to have concerned Mr J and led him to complete additional checks. For example, Mr J received a cold call when he was offered the investment opportunity, the rate of return expected was totally unrealistic, the premise of the scam wasn't believable, and Mr J was given excuses when he tried to withdraw funds.

Mr J didn't agree with the investigator's findings and asked for a final decision, so his complaint has been passed to me to consider. In summary, he said:

- Others involved in the same scam have received refunds from their banks and he thinks he should too.

- He did have a reasonable basis for belief under the CRM Code. Representatives of T were knowledgeable, T had a professional website and was in regular contact by phone, email and message. Mr J also received a contract and receipt after his first payment but has accidentally deleted the email.
- The transactions were concerning, and Lloyds should have done more when they were made. Lloyds should also have investigated the accounts he paid.
- He has been a loyal customer of Lloyds for 36 years and this should be taken into account.

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.

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.

I've considered whether Lloyds should have reimbursed Mr J under the provisions of the CRM Code and whether it ought to have done more to protect him from the possibility of financial harm from fraud.

There's no dispute here that Mr J was tricked into making the payments. But this isn't enough for him to receive a refund of the money under the CRM Code. Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that:

- 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

There are further exceptions outlined in the CRM Code that do not apply to this case.

Taking into account all the circumstances of this case, including the characteristics of Mr J and the complexity of the scam, I think the concerns Lloyds has raised about the legitimacy of the transactions Mr J made are enough to support its position that it can rely on an exception to reimbursement set out in the CRM Code. I don't think he had a reasonable basis for believing that the person he transacted with was legitimate or that the investment was genuine. I say this because:

- Mr J was cold called about the opportunity to invest so ought reasonably to have been more sceptical than if he was seeking a way to invest/boost funds himself.
- Mr J didn't complete any independent research to verify the information he was provided with, and he didn't seek out any reviews of T. The only reviews he saw were on T's website.
- The exact nature of the 'investment' is unclear but appears to relate to spread or pool betting. Mr J hasn't been able to provide any documents that set out the nature of the agreement reached and what was expected of each party. For any form of legitimate investment, I'd expect to see evidence of this nature. I've seen what is described as a contract receipt in respect of the third payment Mr J made, which includes a space for Mr J's signature and says that by signing he agrees to the terms. But no terms were included.
- Betting of this nature is regulated but there is no indication that T claimed to be regulated.
- All investments involve risk, but Mr J seems to have been told that he'd receive a substantial and unrealistic profit each month. I think this ought reasonably to have

caused Mr J concern and led him to complete some checks before making payments. At the time Mr J wanted to withdraw funds, in around December 2021, he said his investment of £4,050 had reached around £60,000.

- The evidence Mr J has provided isn't persuasive. The emails have no disclaimers at the bottom and only include an email address, phone number and website and the monthly profit reports were very basic. There were no logos either.
- Mr J made further payments without receiving any form of profit or return.

I've also considered whether Lloyds should have provided Mr J with an effective warning as set out in the CRM Code, or otherwise intervened, but I don't think it should have. Whilst I appreciate the loss has had a big impact on Mr J, the payments Mr J made were relatively small and were made over a period of around 11 months. And there were no other scam indicators present, like draining the account. So I'm not persuaded Lloyds ought to have recognised a scam risk when the payments were made or taken any further action.

I can see that Lloyds attempted to recover Mr J's funds once it was notified of the scam but that no funds have been returned. Given the time that elapsed between the payments and when Mr J reported the scam to Lloyds, I'm not surprised no funds remained - as scammers usually remove funds quickly.

Mr J has explained that others who gave money to T have had refunds from their banks. I haven't seen any evidence of this but, in any event, this doesn't mean that Mr J should also receive a refund. I am required to look at the individual circumstances of each complaint I decide and the assessment of whether an exception to reimbursement can fairly be applied relates to individual facts. I also appreciate that Mr J has been a loyal customer of Lloyds, but I can't recommend a refund on this basis.

Overall, whilst I'm sorry to hear Mr J has been the victim of a cruel scam, I can't reasonably hold Lloyds responsible for his loss.

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 6 September 2023.

Jay Hadfield
Ombudsman