

The complaint

Miss S is unhappy that she hasn't received a full refund after she was the victim of an authorised push payment scam.

What happened

Miss S received a scam text message relating to a parcel. She followed a link in the message she received and entered her details. She said she was suspicious but proceeded anyway. Scammers then used this information to call Miss S ten minutes later, pretending to be from her bank saying her account was under threat and she needed to take action to protect her money. Miss S said the caller knew she was using an android device and they gave her a password to use if they needed to call back and speak to her again.

She was told she needed to apply for a £25,000 loan to cancel a loan that fraudsters had taken out in her name and she proceeded to do as instructed. The next day she was asked to make two payments and a third payment the following day - all to an account in someone else's name, held at a different bank. In total Miss S made payments totalling £30,600.

She was told not to tell anyone about the conversations or transactions she was carrying out. After the third payment she was told to delete her mobile banking app and to reload it and she would be given a new activation code, but the callers hung up on Miss S. She became concerned and visited her Lloyds branch where she was told she had been scammed.

At the time Miss S reported the scam to the bank she was asked if the caller had any personal information about her and she said they didn't. But she said they knew she had money in her account. She said she did check the telephone number of the caller, before making the third payment. The caller didn't explain why she needed to make the payments, or who they were being made to, and she did not ask about this either. And she didn't challenge the payments to an account held at a different bank even though she thought this was unusual at the time. Miss S said she was hoping to call the bank to check if the calls and her payments had been genuine, but she didn't have time.

Miss S received a partial refund of 50% of her losses from Lloyds' bank. Her complaint is that she should receive a full refund.

Miss S also received a default notice with regards to the loan repayments. Miss S's representatives have indicated she is unable to meet the monthly repayments as they stand. As Miss S was unhappy with the partial refund she received, and the remaining liability for the loan, she brought the complaint to our service.

One of our investigators looked into things. She recommended that Lloyds pay a further 50% of the third payment Miss S made as part of the scam (plus interest at the savings account rate). She thought Miss S didn't have a reasonable basis of belief when making the first two payments, but did for the third, when she checked the "spoofed" number she had been called on and it appeared to be from Lloyds. She said Miss S didn't have a reasonable basis of belief for the first two payments for the following reasons:

- Miss S had recognised warning signs throughout the call with the scammer but didn't take steps to verify the call was genuinely from her bank.
- Miss S had said the conversation with the scammer in between the first and second payment made her suspicious and she noticed the payments were made to a different bank but didn't question this.
- She also made the payment to an unknown individual and the scammer didn't have any personal or account information about her when calling her initially. The only information the scammer had was that Miss S was using an Android device.

Our investigator also said she carefully considered Miss S's personal circumstances and acknowledged some of the difficulties Miss S faced in her day-to-day life. But she didn't think Miss S was vulnerable for the purposes of the CRM code - that she was unable to protect herself from this type of scam. And importantly Miss S had identified the risks and taken some steps to protect herself, but not enough to say she had a reasonable basis of belief for all the payments. The investigator also considered Lloyds' actions after it was notified of the scam, and its attempts to recover the money, but no funds remained in the recipient account. Lloyds accepted the investigators findings.

Miss S's representatives carefully considered the investigators opinion but said as it was a lot of money they wanted an ombudsman to make a final decision on the matter. They also said Miss S would only be able to afford small payments towards the loan. As the complaint couldn't be resolved it has been passed to me.

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.

Firstly, I want to say how sorry I am that Miss S has been the victim of such a cruel scam. My role here is to decide whether Lloyd's offer is fair, in line with CRM code and other regulatory guidance in place at the time. The scammers are ultimately to blame for the distress she has suffered following these events.

Having considered everything I'm not recommending that Lloyds needs to refund anything more than it's already agreed to. I appreciate this will come as a disappointment to Miss S, so I'll explain my findings.

As Lloyds has agreed to refund 50% of Miss S's losses, I haven't considered, in detail, the intervention that it took and the warnings it provided. It's already accepted fault in that regard.

The crux of this complaint is about the remaining 50% of Miss S's losses which Lloyds initially said it didn't need to refund. It has relied on the exception to refund in full under the CRM code – that Miss S didn't have a reasonable basis for believing she was dealing with Lloyds when she made these payments. Although it has now agreed to refund Miss S for the third payment that she made.

This leaves me to consider Miss S's actions and whether she had a reasonable basis for belief when making the first two payments.

I can see that Miss S was hooked in by the scammers and followed the instructions she was given on the phone. But I agree with the investigator that there were enough red flags about what she was being asked to do that ought to have caused her to ask more questions and

be concerned that she wasn't speaking with Lloyds. I appreciate that Miss S might not have been able to recount every detail of the calls she'd had with the scammers when reporting the scam to the bank. But the call where she first reports the scam to the bank is likely to be the most accurate version of events, so I have considered what she said here carefully.

- Miss S hasn't said that the caller had any detailed information about her that might have persuaded her they were calling from her bank. It's not clear why she thought she could then trust and follow the actions and make the payments she was then tasked with by the caller.
- Miss S says she was instructed to take out the £25,000 loan to cancel one that had been fraudulently taken out. She said she didn't really understand and couldn't really comprehend what she was being asked to do. I appreciate Miss S might not have understood how banks systems work or how banks might react when fraud has taken place on an account. But it's not clear why Miss S thought applying for a new loan would cancel a fraudulent one and she didn't question this at the time either.
- The requests to make the payments came the morning after she successfully applied for the loan. With no explanation about why they were needed and who the payments were going to. Miss S had time to process what she'd been asked to do and had the opportunity to contact the bank to verify if the calls she received had been genuine. The scam ran across three consecutive days so there wasn't the time pressure and the need to act quickly which we usually see in these types of scams. So I'm not persuaded that Miss S reasonably followed these instructions. And she ought to have questioned why she needed to make any payments and who they were being made to.
- There were other red flags about what she was being asked to do including that she was to keep the conversations and transactions a secret.

Having considered everything carefully I'm not persuaded that Miss S had a reasonable basis of belief when making these two payments. I haven't gone on to consider the third payment as Lloyds has agreed to refund this and so it now needs to make this refund.

Miss S's personal circumstances

I have also considered Miss S's personal circumstances and understand her representatives have said she is vulnerable. The CRM code defines vulnerability as:

"A customer is vulnerable to APP scams if it would not be reasonable to expect that customer to have protected themselves, at the time of becoming victim of an APP scam, against that particular scam, to the extent of the impact they suffered"

I can see Miss S has managed her bank account and finances prior to the scam and hasn't indicated that she needed any additional support from the bank or others in doing so. During the call with the bank, I can hear that Miss S is able to clearly recall and articulate the events. Importantly she identified certain elements about what she was told to do by the scammers as suspicious. With this in mind, I don't think Miss S was vulnerable under the CRM code.

I appreciate this scam has impacted Miss S and her family and in general been a distressing experience. But I can't say the bank should refund anything further.

The outstanding loan

Miss S is liable for the remaining loan balance and its repayments. If she is unable to meet the monthly repayments, she should discuss this with Lloyds. Lloyds needs to treat Miss S

fairly and sympathetically if she is in financial difficulties, but she will need to contact Lloyds to discuss repayment and her financial position.

My final decision

I don't uphold this complaint. I'm not recommending any further refund beyond what Lloyds has already paid and agreed to refund.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 28 October 2023.

Sophia Smith
Ombudsman