

The complaint

Mr W complains that Lloyds Bank PLC ('Lloyds') won't refund him after he was the victim of a scam.

What happened

What Mr W says

Mr W says that he met a girl I'll refer to in this decision as L on a dating site and had a relationship with her for around five months. During this period, he met L and her friends on a few occasions. Mr W says he was aware that L had a deeply personal issue going on at the time.

In around February/March 2022 Mr W was added to a social media group that mentioned what L was going through and asked for financial support. The messages tied in with what he knew about L and matched how L and her friends spoke, so Mr W thought it was legitimate. He started to make payments to people he thought were friends of L's, to pay for counselling. He made some bank transfers, payments to an online payment platform I'll refer to in this decision as P, and bought gift cards that he thought could be exchanged for counselling. The social media messages asked Mr W not to discuss what was going on with L.

After a few months Mr W's bank spoke to him about the payments and involved the police. He says Lloyds' fraud team and the police thought the situation could be genuine but also that Mr W may be falling victim to a scam. He contacted L and she said it might be a scam but didn't deny she was having a difficult time.

As time went on, the messages Mr W thought he was receiving from L's friends became more threatening and he was told if he didn't continue to make payments, he wouldn't get his savings back. Mr W realised he was the victim of a scam in around January 2023 when he established that gift cards he had bought weren't in L's name or the names of her friends. He contacted Lloyds on 23 January 2023 to report what had happened.

Between the end of February 2022 and January 2023 Mr W made card payments totalling around £30,000 to multiple different accounts with P.

What Lloyds say

Lloyds didn't agree to refund the card transactions saying there was no bank error. It said it had been clear about its concerns and had gone as far as calling the police. Lloyds also said that as the payments were made through P's friends and family option it had no chargeback option.

Mr W says Lloyds should have noticed unusual payments leaving his account and has asked that Lloyds refund all the card transactions to accounts with P.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. He said that in March 2022 Lloyds called Mr W into branch because they were concerned a payment he was making may be related to a scam. After speaking to Mr W, Lloyds had sufficient concern to call the police. But after this, Mr W made multiple card payments to different

accounts with P. These card payments were spread out and the investigator didn't think Lloyds should have noted any unusual activity. In any event, even if Lloyds had intervened when Mr W made the card payments, the investigator felt that Mr W would have tried to persuade Lloyds the payments were genuine as he had done in March 2022, so the scam wouldn't have been stopped.

Mr W didn't agree with the investigator's findings. I have summarised his main points below:

- The police and Action Fraud say he's the innocent victim of fraud and he understands this means he should be refunded in full.
- Lloyds called the police because of irregular activity and not because it thought he was the victim of fraud.
- The bank and police said it was 50/50 whether he was being scammed in 2022. Mr W had spoken to L for around a month before he met her. He had also met L and her friends over a four to five month period, which was unusual in scam cases. And L had a big online presence.
- Mr W questions why Lloyds authorised an overdraft and granted him a loan after the meeting with the police if they thought he was a victim of fraud. This either demonstrates Lloyds weren't convinced it was a scam or failed in its duty of care in allowing the overdraft and loan.
- There is protection in place in respect of the card payments he made.
- He accepts that his judgement might have been affected if Lloyds had intervened when subsequent payments were made because he was emotionally invested in L and believed he was in a serious relationship with her. But Lloyds didn't attempt to make contact with him.

The 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.

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.

The Lending Standards Board's Contingent Reimbursement Model Code (CRM Code) doesn't apply to card payments like the ones Mr W made.

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.

However, 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 made 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.

In this case, before he made the payments to accounts at P I'm considering in this complaint, Mr W made three faster payments totalling £1,700 on 9 March 2022 to a new account. These transactions were later refunded when Mr W raised a fraud claim so don't form part of this complaint. They are relevant though because at the time Mr W made these transactions Mr W was asked to go into branch because Lloyds had suspicions that Mr W was being socially engineered. Lloyds discussed the payments with Mr W, and he explained that a friend he had known for two years was going through counselling and he was happy to help financially. Branch staff thought Mr W was being scammed and invoked the Banking Protocol.

The Banking Protocol is a joint initiative between financial institutions and the police. It centres around trying to protect customers from losing money to fraud, particularly in relation to in-branch withdrawals or transfers. The Banking Protocol says that:

"If a customer is identified as making an unusual or out of character cash withdrawal or fund transfer request..."

- 1. The colleague will discreetly question the customer about their withdrawal and the reason for making it.*
- 2. If the colleague is concerned that the customer may be a victim of fraud, they will notify a senior member of staff and, where possible, take the customer to a quiet area or private room to ask further questions.*
- 3. If the colleague believes the customer is the victim of fraud then they should call the police immediately on 999 quoting 'Banking Protocol'.*

So, it's clear that invoking the Banking Protocol and calling the police is a step that is only taken when branch staff believe a customer is the victim of fraud. I've read Lloyds' notes from the time and am satisfied that after discussing what was going on with Mr W both Lloyds and the police thought that he was the victim of a scam, and that Mr W was given scam education in the form of leaflets. Lloyds' records note the outcome of the police referral as "*scam prevented*" which suggests Lloyds believed Mr W had understood the position and wouldn't make further payments. Overall, having carefully considered all the evidence gathered at the time I'm not satisfied it supports Mr W's recollection that he was told it was 50/50 whether he was the victim of a scam in March 2022.

The majority of the card payments to P I am considering in this decision were made after the Banking Protocol was invoked. The investigator asked Mr W what he did after this interaction to satisfy himself that the requests for payment he was receiving were legitimate. Mr W said that he contacted L who said it could be a scam, but didn't say it definitely was a scam. Lloyds' records from its scam report in respect of the faster payments that have been refunded say that after he had spoken to the police Mr W tried to verify with L that she was receiving the service he was paying for but didn't get a response. The scammers then persuaded him to make further payments. Either way, I'm not persuaded Mr W heeded the advice he was given when the Banking Protocol was invoked or took appropriate steps before sending more money via an alternative method.

The transactions to P were made over a period of nearly a year and were relatively low in value, although I recognise the total amount Mr W lost is large. The highest value transaction was for £1,300. There were also payments to multiple different accounts. On balance, I'm

not persuaded Lloyds should have had enough concern about these transactions to take any additional steps.

Even if I thought Lloyds should have asked Mr W some questions about the reason for the payments to P, I'm not persuaded it could have prevented further loss. Shortly before, Lloyds had made Mr W aware of its concerns and gone as far as asking the police to talk to Mr W. After this significant interaction Mr W didn't take steps to satisfy himself that what he was being told was true and was induced to make further payments. I also note Mr W has accepted that his judgement might have been affected if Lloyds had intervened again as he was emotionally invested.

I also have concerns about exactly what was going on and what the payments to accounts at P were for. Mr W hasn't been able to provide the messages he exchanged with L, but he has provided messages to and from 'Psychic spiritualist' in which she asked Mr W if he wanted to file a dispute and went on to say, "*Or you want the savings to be transferred into your bank*". I've seen another message about refunding Mr W's savings. Mr W has also referred to being told he wouldn't get his savings back if he didn't pay more money. This makes me question whether Mr W believed that the card payments to P related to counselling for L. I'm not making a finding on this point though; my decision is based on the fact I consider Lloyds acted reasonably in following Mr W's payment requests and the fact that in any event I don't consider intervention would have made a difference.

I'll turn now to the points raised by Mr W in response to the investigator's view. He has questioned why he was allowed to increase his overdraft limit and get a £10,000 loan in December 2022 if Lloyds had concerns about his use of his account in March 2022. I have asked Lloyds about this, and it has explained that Mr W applied to increase his overdraft limit online and his requests were automatically accepted by its systems as there were no concerns about affordability at the time. Similarly, Mr W's loan in December 2022 for 'miscellaneous' purposes was automatically approved after taking into account various confidential factors. I consider Lloyds acted reasonably here.

Mr W has asked about the possibility of recovering his funds. Section 75 of the Consumer Credit Act 1975 only applies to credit card payments in certain scenarios. The transactions I am considering here are debit card payments though, so I've not considered S75 any further. And there are no chargeback rights in respect of the payments Mr W made.

Overall, I consider Lloyds acted reasonably so I'm not asking it to reimburse Mr W.

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 W to accept or reject my decision before 20 December 2023.

Jay Hadfield
Ombudsman