

## **The complaint**

Mrs H has complained Lloyds Bank plc won't refund money she lost from her account as a result of a scam.

## **What happened**

In 2022 Mrs H received a call from someone stating they were from a payment transfer company (who I'll call T) where she held an account. She was told she needed to make her account safe from potential fraud as her account details for her Lloyds account were known.

Mrs H was understandably concerned, felt slightly panicked and rushed into taking action. She ended up making three payments. One was a transfer from her Lloyds account to her account with T of £2,562. She also made two payments to her account with T using her Lloyds credit card of £902.70 and £351.05. This left only pennies in her Lloyds current account.

When Mrs H was blocked from using her account with T, she realised she was a victim of a scam. She called Lloyds quickly after what had happened to ask them to refund the payments she'd made. They wouldn't refund her as they felt there was no reason for them to detect her payment behaviour as unusual. They were also aware that Mrs H had transferred the money to an account in her own name which meant they had no liability under the Contingent Reimbursement Model code.

Mrs H brought her complaint to the ombudsman service.

Our investigator noted Mrs H had carried out previous transactions to her account with T, had also made payments of large amounts and left little money in her current account. He didn't feel it would be fair to ask Lloyds to refund Mrs H.

Mrs H's representatives had previously drawn our service's attention to codes and regulations around payments like these and continued to believe Lloyds should have done more in the way of issuing warnings to Mrs H about what she was about to do.

Her complaint has now been referred to an ombudsman.

## **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've reached the same outcome as our investigator. I'll explain why.

There's no dispute that Mrs H made and authorised the payments. Mrs H knew the reasons why she was being asked to transfer money. At the stage she was making these payments, she believed she was taking urgent action to keep her own money safe. She believed once this had been done, she'd be able to access her account with T and was distraught to find this wasn't the case.

I don't dispute Mrs H was scammed but under the Payment Services Regulations 2017, I'm satisfied the transactions were authorised.

It's also accepted that Lloyds has an obligation to follow Mrs H's instructions. So in the first instance Mrs H is presumed liable for her loss. But that's not the end of the story.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider that Lloyds should:

- have been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- 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 (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions 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 its customers from the possibility of financial harm.

Mrs H fell victim to a sophisticated scam. Unfortunately safe account scams – which is what this was – are not massively unusual. Mrs H realises how this happened as she responded to a fake message supposedly from the NHS warning her that she needed to take a Covid test. This allowed fraudsters to know Mrs H had an account with Lloyds and meant they could tailor their approach to her and make it believable.

I know Lloyds have said they'd have expected Mrs H to undertake some checks to ensure who was calling her was genuine. I agree this would be ideal, but I don't think this takes into account the stress that can be caused by these kind of calls, and the panic they're meant to engender in the people who receive them.

Lloyds has confirmed they do have mechanisms in place to check unusual transactions, but Mrs H wasn't doing anything sufficiently unusual to trigger any warnings.

And I can see why they said this. Mrs H made a single payment from her current account to her account with T. Whilst she didn't normally send as much as £2,500, it wasn't unusual for her to send regular payments of £300-400 to T.

I note Mrs H by making one payment almost emptied her current account. I have considered whether this should have been sufficient for Lloyds to have taken action as this would mirror what can happen in a safe account scam. However, Mrs H had on at least three occasions in the previous three months left little credit in her account.

Overall I don't believe the activity carried out by Mrs H – both on her current account and using her credit card – should have been seen as sufficiently unusual to merit any warnings being presented to Mrs H.

I also note the payments Mrs H sent went to her account with T. So I appreciate the point Lloyds has made that she transferred money to her own account.

I've asked Mrs H why she hasn't followed up with a complaint to T as it appears to me that

was where her money was lost. Understandably perhaps, she found it slightly easier to proceed with her complaint against Lloyds. Her correspondence with T, which has been shared with our service, shows that the caller told Mrs H they were calling from T. Although it's the case that Mrs H's evidence also confirmed the call was from Lloyds. I appreciate that scam phone calls can really catch someone off-guard and it's difficult to recall all the details afterwards.

I appreciate how distressing it must have been to be a victim of a scam and there's no dispute that Mrs H has lost out here. However I don't believe it would be fair and reasonable to ask Lloyds to refund Mrs H.

### **My final decision**

For the reasons given, my final decision is not to uphold Mrs H's complaint against Lloyds Bank plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 1 November 2023.

Sandra Quinn  
**Ombudsman**