

The complaint

Mrs M complains that Lloyds Bank PLC hasn't fully refunded her for the money she lost when she fell victim to a scam.

What happened

Mrs M fell victim to a safe account scam. Her details were likely compromised via a phishing email, and Mrs M was then contacted by an individual claiming to be from Lloyds' fraud department.

Mrs M says she was told that her accounts were at risk and that she needed to move her money into 'safe' accounts that belonged to third parties. Unfortunately, and unknown to her at the time, Mrs M was actually speaking with a scammer.

Believing that she was genuinely dealing with Lloyds, Mrs M ended up moving £3,512.43 out of her Lloyds current and savings accounts to the beneficiary account details provided by the scammer.

Mrs M realised she had been the victim of a scam shortly after ending her conversation with the scammer, and contacted Lloyds to see if it could help stop the payments or recover her funds. Lloyds contacted the banks that had received the transfers, in an attempt to recover Mrs M's money, but most of the money had already been moved on and there was only 28p left to recover. Lloyds did though look into whether Mrs M was entitled to a refund of all or some of the payments she made under the Contingent Reimbursement Model (CRM) Code. This voluntary code requires firms to reimburse customers who have been the victims of APP scams in all but a limited number of circumstances, and Lloyds is a signatory to it.

Lloyds said that it felt it should have stepped in at the time of the second payment made to the scam, and so could have done more to protect Mrs M from that point onwards, so it refunded 50% of those payments. But it didn't think Mrs M had a reasonable basis for believing that she was legitimately speaking to the bank's fraud team when making the payments, so it declined to refund any further payments to her.

Mrs M didn't accept this, so she referred her complaint to our service.

One of our Investigators looked into her complaint. They thought Lloyds was entitled not to fully refund Mrs M all of the money she'd lost. They didn't think Mrs M had held a reasonable basis for believing what she did when she sent the payments. They also did not think there was anything about the first few payments Mrs M made that should have triggered any intervention or warning from Lloyds. They acknowledged that the warnings given regarding the later payments did not meet the definition of an effective warning under the code, but also noted that Lloyds had been prevented from providing appropriate tailored warnings as Mrs M had not selected an accurate payment reason or the payments she was making. So, they thought Lloyds had fairly assessed the claim under the Code and didn't think it needed to refund any more of the payments than it had already.

Mrs M remained unhappy, so her case has now been referred to me to reach 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 about what happened to Mrs M, but I have to recognise that the main cause of her losses here were the scammers who deceived her. I must also take into account that Lloyds has an obligation to carry out the payment instructions its customers give it. As a starting point, a customer is therefore assumed liable for a payment they have instructed to be made.

But even with that in mind, where a customer has made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for a bank to reimburse its customer even though the customer authorised the payment.

Amongst other things, Lloyds has a responsibility to exercise reasonable skill and care, pay due regard to the interest of its customers and to follow good industry practice to keep customer's accounts safe. Additionally, as I've mentioned above, the CRM Code can provide increased protection for the victims of APP scams. I'm satisfied that the faster payments Mrs M made fall within the scope of the CRM Code. But despite offering additional protections, the CRM Code includes provisions allowing a firm not to reimburse APP scam losses fully in some circumstances. Those circumstances include where the customer made a payment without a reasonable basis for believing that the person they were dealing with was legitimate, was providing a genuine service, or that the payee was the person the customer was expecting to pay.

Lloyds says this exception applies here. So, while it had reviewed Mrs M's claim against the Code, it didn't think it was required to reimburse her in full.

I need to determine whether Lloyds has established that this exception to reimbursement can be fairly applied – in other words, that Mrs M made the payment without a reasonable basis for believing it was legitimate. In considering this point, I've carefully considered everything Mrs M has submitted as well as the evidence submitted by the bank.

There were some features here that should reasonably have caused Mrs M to use greater caution before sending a large sum of money. Specifically, the caller does not appear to have either 'spoofed' Lloyds number (and so did not appear to be calling from a known bank phone number) nor did they know anything in particular about Mrs M that would have lent some legitimacy to their claim to be working for Lloyds. It also appears that Mrs M was making payments to accounts held by private individuals with other banks, not with Lloyds, but she doesn't appear to have been given any plausible explanation for why this was the case.

In short, I find there were several indicators that all might not be legitimate, and which should have led Mrs M to take further steps to verify that she was legitimately speaking with Lloyds before making any payments. I've carefully considered Mrs M's representations regarding her circumstances and the stress she was under given what the scammer had told her. But I don't consider that Mrs M's circumstances meant she was unable to protect herself from this type of scam - I do not consider she was vulnerable in terms of the Code.

With all this in mind, I think Lloyds has been able to fairly establish that, when Mrs M made the transfers, she did so without a reasonable basis for believing she was legitimately acting

on the instructions of Lloyds. This means that, as set out in the Code, Lloyds does not need to fully refund her for her loss even though this was the result of a scam.

However, under the terms of the Code a bank may still be required to partially reimburse a customer in circumstances where it hasn't met the standards set for firms by the Code. That would include requirements in terms of funds recovery or in taking sufficient steps to protect the customer from falling victim to a scam.

Lloyds has said it considers it didn't meet all of the standards required. It says it didn't do enough to protect Mrs M from the second payment onwards, and accordingly has refunded Mrs M 50% of the payments she lost to the scam from that point on. I've thought carefully about this, and also about the other obligations Lloyds had – aside from those set out in the Code.

At the time Mrs M made the disputed payments I'd expect Lloyds to have had systems in place to look out for unusual transactions or other signs that might indicate a customer was at risk of fraud (among other things). If it had identified such a risk, then I might expect it to have intervened before processing a payment instruction in order to protect its customer from potential harm.

The first payment Mrs M made was for just over £1,000 and, while this was a relatively high amount for Mrs M to pay to a third party, in the context of the payments Lloyds sees every day, I don't think this payment alone was unusual enough to have flagged as potentially suspect. It is not uncommon for account holders to make the occasional higher payment, and there was nothing about the recipient that would have immediately indicated that something untoward could be going on.

But Mrs M then made a further four payments to the same payee within a few minutes, followed by another payment to another new payee from her savings account – something that Mrs M had not done before. I agree with our investigator that there was a point during this series of payments where the pattern was concerning enough that Lloyds should have stepped in to ensure Mrs M was not at risk of fraud.

Lloyds has confirmed that Mrs M was shown warnings regarding two of the payments she made – for the very first payment from her current account, and the payment made from her savings account. In my view, these warnings don't meet the definition of an 'effective warning' as set out in the CRM Code. But in any case, they were tailored specifically to the scam type that could be identified from the payment purpose Mrs M selected for each of those payments, and the purposes she selected ('friends and family' and 'invoice or bill') did not reflect the reality of the payments she was making. So, I think Lloyds was prevented from providing an effective warning regarding these payments as Mrs M did not accurately identify the purpose of these payments.

Lloyds has already admitted it could have done more to protect Mrs M from the second payment made – as a result it agreed to refund Mrs M half of the money she lost from that point on. And bearing in mind all I've seen, I'm satisfied that is reasonable in the circumstances of this complaint.

I have also considered whether Lloyds could have done more to recover Mrs M's funds once she told it of the scam. But I'm satisfied Lloyds could not have done more. It contacted the beneficiary banks immediately, but by that time very little funds remained in the recipient accounts.

With all of the above in mind, I don't consider that Lloyds needs to do more than it has already done. I'm satisfied that the first payment made as part of the scam did not merit

intervention, and that Lloyds has refunded the proportion of the remaining payments that it should reasonably be held liable for under the code.

I understand that this will be very disappointing for Mrs M, and I recognise what the loss of this money has meant for her. But I can reassure Mrs M that I've carefully considered all the circumstances of his complaint before reaching what I consider to be the fair and reasonable decision in all of the circumstances.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 12 June 2024.

Sophie Mitchell
Ombudsman