

The complaint

Mr C complains that Lloyds Bank PLC won't refund the money he lost when he was the victim of a scam.

What happened

In July 2023, Mr C was looking to book a hotel for his cousin and saw an advert on a social media platform for a company offering discounted hotel rates. He messaged the company about what they could offer and agreed to book through them. He then paid an initial deposit of £120, and then two further payments of £500 the following day after he was sent an email confirming the booking. Mr C sent all the payments from his Lloyds account to bank details the company gave him.

Unfortunately, we now know the company was a scam. When Mr C's brother arrived at the hotel, there was no booking for him. The company Mr C booked with initially said it would contact the hotel, but then Mr C didn't hear anything further from them. He then contacted Lloyds to report the scam and ask it to refund the money he had lost.

Lloyds investigated but didn't think there was any reason for it to have stopped the payments to ask further questions, and didn't think Mr C had done enough to protect himself from the scam. So it didn't agree to refund the money he had lost. Mr C wasn't satisfied with Lloyds' response, so referred a complaint to our service.

One of our investigators looked at the complaint. They thought Mr C should have had concerns about some of the things he was told, particularly about who he was speaking to and who he was asked to pay. And they didn't think the payments were unusual enough that Lloyds should have done more. So they didn't think Lloyds should have to refund the money Mr C lost. Mr C disagreed with our investigator, so the complaint 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.

In broad terms, the starting position in law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made payments as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

Lloyds is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This code requires firms to reimburse customers who have been the victim of authorised push payment scams, like the one Mr C fell victim to, in all but a limited number of circumstances. And it is for the firm to establish that one of those exceptions to reimbursement applies.

Under the CRM code, a firm may choose not to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made
- The customer made the payment without a reasonable basis for believing that:
 - o the payee was the person the customer was expecting to pay;
 - o the payment was for genuine goods or services; and/or
 - o the person or business with whom they transacted was legitimate

There are further exceptions within the CRM code, but these don't apply here.

Did Mr C have a reasonable basis for belief when making the payments?

Lloyds has suggested Mr C didn't have a reasonable basis for belief when making the payments, because he didn't do enough to check who he was paying. And while I appreciate that he has been the victim of a cruel and sophisticated scam, I do think there were a number of things about what was happening and what he was told that should have caused him significant concern.

Apart from the confirmation email he was sent, all of Mr C's communication with the scam company appears to have been through the social media platform he saw the advert on. And this isn't how I would expect a genuine company to communicate with its customers. I appreciate that Mr C has said genuine companies are increasingly using social media platforms to reach customers, but I don't think this means that all adverts on these platforms are genuine or that it is not necessary to check who you are speaking to.

Given the amount of money he was sending, and that he was relying on them to arrange accommodation for his cousin who was abroad, I think it's reasonable to expect Mr C to have done some checks into who the company he was speaking to were. But he doesn't appear to have done any checks into them. He was told their website was currently down and under construction, so it doesn't appear they had any online presence other than the social media account he was speaking with. And as he was told they'd been trading for seven years, I think this should have caused Mr C significant concern.

The only other evidence Mr C was given that the company was genuine was screenshots he was sent. But as these were just screenshots of other chat messages the company had sent, and they were sent to him by the company itself, I don't think these should have been particularly reassuring.

Mr C was also told the company could offer discounts of between ten and fifty percent on hotel bookings. And he appears to have received a significant discount on the booking he made. But I think these discounts could be too good to be true and I don't think the explanation he was given for how the company could offer these discounts was plausible. He was told the company 'cut out the middle man', but the confirmation email he received then originally came from another travel agency. So I think this inconsistency and use of another travel agency should have caused him concern.

The confirmation email Mr C received also said payment would be taken by the hotel and that he wouldn't be paying for the booking before the stay. But this wasn't what he understood would be happening, as he was paying the company he was speaking to when the booking was made. The confirmation email was also originally sent to a personal email address in the name of someone he didn't know, and then forwarded to him. And he doesn't appear to have asked for or been given any explanation of who this person was. So I think the confirmation email he received should have caused him concern too.

Mr C was also asked to make the payments to a personal account in the name of another person, different from the name the confirmation email was sent to. But this isn't how I would expect a genuine company to ask for payment, particularly one that had supposedly been trading for seven years. And Mr C doesn't appear to have asked for or been given any explanation of who this person was either.

I sympathise with the position Mr C has found himself in and I appreciate that he has had to re-book the hotel and pay for the booking again. But I think there were a number of things here which should have caused him significant concern. And I don't think he did enough, or that the seemingly genuine information he was shown should have been enough, to satisfy those concerns. So I think Lloyds has established that he made the payments without a reasonable basis for belief that they were genuine.

Lloyds has therefore established that one of the exceptions to reimbursement under the CRM code applies here, and it does not have to refund Mr C all the money he lost.

Did Lloyds meet its obligations under the CRM code?

Even though I don't think Mr C had a reasonable basis for belief when making the payments, he may still be entitled to a refund of some of the money he lost if Lloyds didn't meet its obligations under the CRM code – one of which is to provide effective warnings when it identifies a scam risk.

But the payments Mr C made here weren't for particularly significant amounts of money. He had made other payments out of his account for similar and larger amounts in the previous months. And the payments didn't leave the balance of his account at a particularly unusual level. So I wouldn't have expected Lloyds to identify a scam risk as a result of the payments Mr C made. And so I don't think it was required to provide Mr C with an effective warning here or that it has failed to meet its obligations under the CRM code by failing to do so.

I therefore don't think Lloyds is required to refund any of the money Mr C lost as a result of this scam.

Mr C has argued that the way people buy and sell goods and services is changing, particularly online, and so this should be taken into account when thinking about what was expected of him and the standards applied to Lloyds. But, regardless of how the booking came about, I've explained above why I think he should have had significant concerns about what was happening and didn't do enough to satisfy these concerns. And I don't think it would be fair to require Lloyds to meet a standard in excess of the CRM code it has signed up to, or any other standard of good business practice currently in place. So I still don't think Lloyds should be required to refund any of the money Mr C lost.

Did Lloyds do enough to recover the money Mr C lost?

We expect banks to take reasonable steps to try to recover the money their customers have lost, once they are made aware of a scam.

Lloyds' evidence shows it tried to recover the money from the account it was sent to within a reasonable amount of time of Mr C reporting the scam. So while unfortunately it wasn't able to recover any of the money, Lloyds has done all I would expect it to have done and so I don't think it would be fair to require it to do anything further.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 2 February 2024.

Alan Millward
Ombudsman