

## **The complaint**

Mrs G, on behalf of A, complains that Lloyds Bank PLC will not refund the money the business lost as the result of an APP (authorised push payment) scam.

## **What happened**

Both parties are familiar with the details of the scam so I will not repeat them in full here. In summary, Mrs G made two international payments from A's account on the basis she was paying a supplier. But the supplier's email had been hacked and A fell victim to an impersonation scam. The first payment for £24,392.41 was sent on 25 October 2022, the second for £24,460.11 was sent on 15 November 2022. When the genuine supplier chased Mrs G for payment on she realised she had been scammed. The following day, 25 November 2022, she reported this to Lloyds. It attempted to recover the funds, but heard from the recipient bank on 29 November 2022 that no funds remained.

Lloyds rejected A's refund claim saying the payments were not out of character for the account so it did not intervene, and Mrs G did not conduct adequate checks before making the payments.

Mrs G says the account details did not match the name and Lloyds ought to have checked this.

Our investigator did not uphold A's complaint. He found the transactions were not out of character for the account and so there was no failing on Lloyds's part when it did not contact Mrs G before following her instructions. He explained that as they were international payments they were not subject to the same confirmation of payee requirements as payments within the UK.

Mrs G did not accept this assessment and asked for an ombudsman's review. She did not make any specific points but said the investigator had sided with Lloyds.

## **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 do not find Lloyds can be held liable for A's losses. I'll explain why but first want to address the comment Mrs G made about this service 'siding' with Lloyds. We are an independent and impartial organisation and we do not act on behalf of banks or consumers: it is not in our interest to find in favour of one party over the other.

There's no dispute Mrs G authorised both payments on behalf of A. So, under the Payment Services Regulations 2017, and the terms and conditions of A's account, A is presumed liable for the losses in the first instance. But the matter doesn't end there.

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 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 make 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.

As the payments were international the provisions of the Contingent Reimbursement Model (CRM) code do not apply in this case.

I've reviewed the activity which took place on A's account in the months prior to these two payments. Having done so, I don't find Lloyds ought to have intervened and spoken to Mrs G before processing the payments. I say this as there were other high-value international payments made from the account; these two were not made in quick succession and neither debit drained the account. There is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. So, in the round, I cannot fairly conclude that Lloyds ought to have intervened in either of the transactions or to have reasonably suspected A was the potential victim of financial harm.

Mrs G asked why confirmation of payee checks were not done, but these were not payments being made within the UK. This means checking the name of the account was not part of the process as it is with confirmation of payee - international banks and payment institutions aren't subject to the same UK obligations.

I have also considered whether Lloyds did what we would expect to try to recover A's money after the scam was reported. As these were international payments the obligations differ and we look to see if the bank has used best endeavours to retrieve the funds. I can see that it did attempt to recall the funds in a timely manner but they were no longer in the recipient's account.

This means I am not instructing Lloyds to refund any money to A. This is a difficult decision to make, I'm sorry A lost a considerable amount of money which had a major impact as it is a small family business. I can understand why A would like to be compensated for its losses. And I do accept Mrs G has fallen victim to a sophisticated scam. But I can only consider whether the bank, which had no involvement in the scam itself, should be held responsible for what happened. For the reasons set out above I do not find Lloyds can be held liable in the circumstances of this case.

### **My final decision**

I am not upholding A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G, on behalf of A, to accept or reject my decision before 5 February 2024.

Rebecca Connelley  
**Ombudsman**

