

The complaint

Miss J complains that Lloyds Bank PLC ('Lloyds') hasn't refunded transactions she says were made to a scammer.

What happened

Miss J says that she met someone I'll refer to as C in this decision in early 2019 and he moved in with her a few weeks later. A relationship developed. In May 2019 C said he needed to move back to his home country because a family member was ill. Miss J and C continued to communicate via a messaging service, but I have only been provided with a couple of the messages exchanged.

While C lived with Miss J, she made transfers of between £10 and £140 to him. Once C moved out Miss J made more than 100 international payments to C over a period of over three years amounting to in excess of £30,000.

In December 2021 Miss J contacted Lloyds about two credit card transactions made in June 2020. She explained that a £2,000 credit card debt related to C who had asked for money for a flight to the UK and had told Miss J he would repay her when he got work on his return. But after she'd provided the funds, C said he wouldn't pay her and wasn't answering calls or emails. Miss J also explained that she had sent around £20,000 to C via an international money transfer service she was also going to contact. Miss J explained that C would ask for funds for things like hospital treatment, because he was in trouble with the police or because he had lost his phone. Once she had sent funds, he would often block contact with her until he asked for further funds.

Miss J spoke to staff in various departments in the December 2021 call. She was told that she wasn't the victim of a romance scam and was advised to contact the police. Lloyds also said that Miss J couldn't raise a dispute in respect of the card payments as the service had been provided. Miss J was transferred to a specialist support team which discussed her mental health and placed a 30 day hold on her account. She was also referred to external services that could help with her financial position. Further help was provided by Lloyds when Miss J's brother called in March 2022 as Miss J was due to go into hospital.

Miss J contacted Lloyds and said she was the victim of a scam in 2023. Lloyds declined to raise a fraud claim and said that Miss J had a civil dispute with C. This was because Miss J was in a relationship with him, and he had lived at her home for five months. Lloyds also noted that most of the payments were international payments which aren't covered by the Contingent Reimbursement Model Code (CRM Code) and Lloyds had no reason to believe Miss J was at risk of fraud at the time the payments were made. In respect of the Financial Abuse Code referred to by Miss J, Lloyds said she gave the money willingly, wasn't under duress and had control of her own finances.

Miss J wasn't happy with Lloyds' response and brought a complaint to this service.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. She said Miss J had a civil dispute with C and that she didn't believe Lloyds had any reason to intervene when the transactions were made.

Miss J didn't agree with the investigator's findings, so her complaint has been passed to me to decide.

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, 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 have been good industry practice at the time.

I'm sorry to disappoint Miss J, but I have reached the same outcome as the investigator for broadly the same reasons. That's not to say that Miss J hasn't had a difficult time and her trust in C was misplaced. But I can't consider a dispute between Miss J and C. My role is limited to looking at whether Lloyds has treated Miss J fairly.

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. In this case there's no dispute that Miss J authorised the transactions she has now asked Lloyds to refund.

I'll start by considering the early transfers to C while he was living with Miss J. The Lending Standards Board's Contingent Reimbursement Model Code (CRM Code) provides protection to scam victims who have made faster payments. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam (except in limited circumstances). But the CRM Code only applies if the definition of an authorised push payment (APP) scam, as set out in it, is met. I have set this definition out below:

...a transfer of funds executed across Faster Payments...where:

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.

In other words, the CRM Code only applies if it can reasonably be established that there was the intent to defraud the customer from the outset and that the high bar required for criminal fraud would likely be met. I haven't been provided with any such evidence in this case. I consider it to be more likely that Miss J and C had joint expenses while they were living together, or Miss J willingly gave C money. Without any evidence of criminal intent, I can't fairly say that Miss J is the victim of an APP scam.

The CRM Code doesn't cover international payments or card payments so doesn't apply to any of the other transactions Miss J is claiming for. Aside from the CRM Code though, a bank still has wider obligations and a duty to protect its customers, as far as is reasonably possible, against the risk of financial harm from fraud and scams.

In this case, I don't consider Lloyds acted unfairly or unreasonably in processing the international payments and card payments. I don't think there was enough going on that Lloyds ought reasonably to have recognised a scam risk and intervened when any of the transactions were made. I appreciate this will come as a real disappointment to Miss J, but I must be fair to both parties.

Miss J made regular low value payments to C which wouldn't have stood out as unusual to Lloyds. For example, in June 2019 Miss J made three payments totalling £120 and in February 2020 she made five payments of between £150 and £350 which totalled £1,090. In March 2020 there was a higher value transaction of £2,000, but given the length of time Miss

J had been making the payments and the fact the transaction was still relatively low I still don't believe Lloyds had any reason to intervene. Whilst there were some later transactions of between £1,000 and £2,000, the payee was well-established.

There's a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. Whilst banks have obligations to act in their customers' best interests, they can't reasonably be involved in every transaction. To do so would involve significant disruption to legitimate payments.

Importantly though, even if Lloyds had asked Miss J about the reasons for the transactions, I don't consider it would have raised scam concerns. Miss J was making payments to someone she knew well and had lived with and was making the payments willingly. I'm not satisfied that any questions Lloyds might have asked would have caused any concern.

I have also thought about Miss J's vulnerability. Having listened to Miss J's calls with Lloyds in December 2021 it's clear that she discussed her state of health and allowed Lloyds to keep a record of what she disclosed. Miss J had access to a local support team and was working part-time. At this stage Miss J told Lloyds that she was the victim of a scam, and that C had repeatedly lied to her. Miss J showed a good understanding of the position she was in and there was no indication that she planned to make further payments. There was also no suggestion in the calls that Miss J wasn't capable of handling her own financial affairs. Miss J was advised to contact the police, and in calls later in the day she confirmed she had done so.

I'm also satisfied that Lloyds provided appropriate levels of support to Miss J in December 2019. She was referred to a specialist team and measures were put in place to help with Miss J's financial situation. The team ensured Miss J had appropriate support to manage her health and she was referred to appropriate bodies for further support.

Miss J's brother called Lloyds with her in March 2022 as Miss J wasn't in a good state of health and was due to go into hospital. Lloyds agreed to another 30 day hold on Miss J's account and the advisor was caring and helpful. Miss J's brother advised they were considering a power of attorney and he needed to get advice about it, but in the meantime, Lloyds agreed to provide a letter of authority to allow him to discuss financial matters. Overall, I'm satisfied Lloyds took appropriate steps.

Miss J continued to make international payments after her calls with Lloyds in December 2021. The payments were low value (between £30 and £400) and were spread out over the course of a year. I'm not persuaded Lloyds should have intervened when any of these transactions were made.

Lloyds is a signatory of the Financial Abuse Code 2021, which Miss J has referred to in her submission to this service. This code focuses on understanding, communication, customer service and skills with a focus on supporting customers to regain control of their finances. It isn't a reimbursement code though.

Overall, whilst I'm very sorry to hear about Miss J's loss, I can't reasonably ask Lloyds to refund her.

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 Miss J to accept or reject my decision before 16 May 2024.

Jay Hadfield
Ombudsman

