

The complaint

Mrs F complains that Lloyds Bank PLC did not refund a series of payments she lost to a scam.

What happened

Mrs F searched online for investment opportunities and found a company I'll call 'K'. She was contacted by a trader for the company and they discussed Mrs F's goals and parameters for investing. She was advised to download a trading platform so she could view the live trades, as well as software called Anydesk. Mrs F was initially advised to invest just £2 so she could see how the trades and profits worked. She did this on 6 May 2022. When she was happy with the process, she invested £4,066 on 11 May, followed by a further £4,036 on 20 May.

Mrs F began to ask for some of the returns to be withdrawn, and the trader initially released £80.02 to her account. However, soon after that, the trader began to make excuses as to why they could not speak with Mrs F and eventually stopped communicating altogether. It was at that point that Mrs F realised she had been the victim of a scam. She raised a claim with Lloyds who issued a final response. In this, they explained that the transactions did not fall under the Contingent Reimbursement Model (CRM) code, which offers additional protection to victims of these kind of scams. And they felt Mrs F could have done more to ensure K was a legitimate company. So, they did not agree to refund the £8,021.98.

Mrs F referred the complaint to our service and our Investigator looked into it. They explained that they did not think the payments themselves were of a value significant enough to warrant intervention by Lloyds prior to them being processed, that they were not made in quick succession of each other, and that the end balance after the payments was not unusual. So, they didn't agree Lloyds needed to intervene or that they therefore missed an opportunity to reveal the scam.

Mrs F's representative responded and disagreed with the findings. They felt that the payments were unusual when compared with Mrs F's normal account activity, especially the second payment, and that Lloyds should have intervened.

As an informal agreement could not be reached, the complaint has been passed to me for 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.

Mrs F has unfortunately been the victim of a scam, the warnings on the Financial Conduct Authorities website about K highlight this and she has therefore lost £8,021.98.

As has already been explained, the CRM code does not apply in this case, as Mrs F transferred the funds to a crypto exchange account that was in her name, in order to purchase cryptocurrency which was then sent on to the scammer. However, Lloyds still had a basic duty of care to its customers to protect them from fraud.

Broadly speaking, the starting position in law is that an account provider is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the account. And a customer will then be responsible for the transactions that they have authorised.

It's not in dispute here that Mrs F authorised the payments totalling £8,021.98 as she believed they were part of a legitimate investment. So, while I recognise that Mrs F didn't intend the money to go to scammers, the starting position in law is that Lloyds was obliged to follow her instruction and process the payments. Because of this, Mrs F is not automatically entitled to a refund.

The regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams. So, I've also thought about whether Lloyds did enough to try to keep Mrs F's account safe.

I've considered the transactions in comparison to Mrs F's normal account activity, to see if Lloyds should have flagged them as potentially suspicious. I can see that Mrs F made an initial tester payment of £2 to the new payee, to ensure she was happy with the process. And this would not have been of any concern to Lloyds due to its small value. This also means that when Mrs F made the second payment of £4,066 five days later, this was now to an existing payee, which lowers the risk level of the payment. While I do accept that the amount is higher than Mrs F's normal payments on the account, I don't think this alone is enough to warrant an intervention by Lloyds. And I don't think the value is significant enough to have flagged that Mrs F may be at risk of financial harm.

I've taken on board the comments of Mrs F's representative that the second payment of £4,066 should have been flagged as suspicious. Again, I don't consider that the value of the payment is significant enough to have warranted intervention for that reason alone. Each time, Mrs F credited the account from another account in her name prior to making the transfers, which follows the normal pattern of behaviour for her account. And the balance remaining after each payment was not particularly unusual. While I do recognise that this was the third payment to the same payee, though the first payment was minimal, it was nine days later. And I think this gap, along with the other factors discussed above, means Lloyds did not act unreasonably when it did not intervene prior to this payment being processed. So, I don't think it missed an opportunity to reveal the scam and I don't think Lloyds needs to refund Mrs F.

I've considered whether the funds could be recovered. However, because they went to a cryptocurrency account in Mrs F's name and were then exchanged into cryptocurrency before being passed on to the scammer, there was nothing further Lloyds could do to try and recover them.

My final decision

I do not uphold Mrs F's complaint against Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 10 November 2023.

Rebecca Norris
Ombudsman