DRN-4208523

The complaint

Mr H complains about Lloyds Bank PLC.

He says that he was the victim of a scam, and that Lloyds didn’t do enough to protect him from financial loss as a result.

What happened

In August 2021, Mr H began making payments to T after speaking with an advisor called D.

Mr H had previous dealings with D, when he invested with a separate investment company.

Mr H says that D was a scammer, and that he was manipulated into making payments to T and has lost a significant amount of money as a result.

Mr H said that he lost over £100,000 – but Lloyds has shown that he made payments of £67,730 to T through his Lloyds bank account and received payments of £24,348.07.

He says that Lloyds should have stopped the payments as they were unusual for him, and that he did not authorise the payments.

Mr H made a complaint to Lloyds about the payments he says it should not have allowed to leave his account. Lloyds didn’t uphold his complaint, so he brought it to this Service.

Our investigator considered things but didn’t think that Mr H’s complaint should be upheld. They said that there wasn’t enough evidence that Mr H had been the victim of a scam – and that it looked like Mr H had lost money through a high-risk investment.

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’ve decided to not uphold this complaint for broadly the same reasons as our Investigator. I know that this will be disappointing for Mr H, so I’ll explain why.

Was Mr H the victim of a scam?

Firstly, I should say that I don’t think that Mr H has shown here that he has been the victim of a scam. Mr H alleges that he was dealing with D initially saying that D was an affiliate of T – but then that he wasn’t. So, it isn’t clear if D is a genuine financial advisor or not.

T was, and still is a legitimate company which is registered by the Financial Conduct Authority (FCA). I understand that there is a ‘clone’ of T which is also noted on the FCA register – but Mr H made his payments to T directly, and not the clone. He also received significant amounts of money back from T when he asked for it – which would be very unusual for an investment scam.

The evidence I have been provided suggests that D set Mr H up an account with T, and then Mr H provided D with his card details in order to fund the investment account. Mr H hasn't provided anything to show that D didn't invest the money on Mr H's behalf or transferred the money into an account in his own name. So, Mr H hasn't been able to show that he has lost money as part of a scam. Instead, the evidence suggests that he gave D authority to invest on his behalf, but that the investment has not turned out to be as lucrative as he had hoped.

Did Mr H authorise the payments?

In line with the Payment Services Regulations 2017 (PSRs), Mr H isn't liable for payments he didn't authorise, unless he failed with gross negligence or intent to comply with the terms of the account or keep his personalised security details safe. Accordingly, I've considered whether Mr H authorised the payments – and so, whether he made the payment himself or whether he gave someone else permission to do this on her behalf.

I am satisfied that on balance, Mr H did authorise the payments that were made. The PSR's state that consent is given when a customer uses the steps agreed for making a transaction – and it's also possible to provide consent for someone to act on your behalf.

While Mr H says that he didn't authorise the payments made to T, he did provide D with his card details to trade on his behalf – which is what happened here as Mr H gave D apparent authority to complete the transactions on his behalf.

I understand that Mr H also says he didn't realise D was making more payments to T than he thought – but I find it unlikely that Mr H didn't notice the payments leaving his account. Lloyds has shown that Mr H checked his online banking almost daily during the period that the payments were made, so I think if he hadn't expected these payments to be leaving his account, he would have noticed them, and got in touch with Lloyds. These were not small payments that could easily have been overlooked.

Should Lloyds have intervened?

One of Mr H's main complaint points is that Lloyds should have stopped the payments being made, and therefore stopped the loss that Mr H has suffered. He says that it had a duty to protect him from fraud and scams.

While I agree that Lloyds does have a duty to protect its customers from fraud or scams, it has no obligation to protect its customers from bad bargains or to provide investment advice – and as I've explained above, Mr H hasn't shown that he has been the victim of fraud or a scam. So, I don't consider Lloyds was under any obligation to prevent these payments from being made.

Recovery of the payments

I've also considered whether Lloyd's ought to have tried to recover the payments that Mr H made, as in some circumstances the money can be recovered via the bank raising a chargeback dispute. However, in these circumstances, Mr H authorised payments to pay a legitimate business. So, he wouldn't be able to make a successful chargeback claim in these circumstances because the company he paid had ostensibly provided the services as intended. Therefore, I do not think Lloyds were under any obligation to raise a chargeback for Mr H either.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 21 September 2023.

Claire Pugh
Ombudsman