

The complaint

Mr A complains that Lloyds Bank PLC (“Lloyds”) refuses to refund him losses after he fell victim to a scam. Mr A has a representative assisting him with his complaint.

What happened

Mr A noticed some television and media adverts about investment opportunities that advertised the use of artificial intelligence to help consumers invest – noting consumers could start with an initial investment of only £200. Mr A started looking online for companies to invest in.

In June 2022, while doing his research, Mr A found the scam company (which I’ll call CP). This company offered to provide him with an investment advisor and noted that he could invest with also only £200. Mr A submitted his details to CP via an online enquiry form.

Mr A was called by the scammer and he paid £200 from his bank account with a different bank (which I’ll call M). A trading platform with CP had been set up for him, and Mr A could see the £200 in his platform.

On the advice of the scammer, Mr A opened accounts with two other UK regulated businesses which I’ll call R and W. He was also advised to open accounts with cryptocurrency exchanges and he opened one with cryptocurrency exchange B.

On 29 July 2022, Mr A transferred two payments to his account with W – all but £10 of this was returned the same day by W.

Over the next few days, Mr A made further payments to W, then onto B and then on to what he believed was his trading platform (although he now believes it was the scammers wallet). Mr A says he started having problems with W, so he then started to also send money to his account held with R.

On 2 August 2022, a payment of £5,550 to R was blocked by Lloyds, but after speaking with Mr A, Lloyds processed the payment. Mr A went on to make further payments to R over the coming week.

On 8 August 2022, a loan was taken out in Mr A’s name, but I understand a complaint about this loan was dealt with and resolved separately by Lloyds.

I understand Mr A was happy with how his trading platform had been performing and tried to withdraw his money. CP resisted allowing the withdrawal instead persuading Mr A to keep his money in the investment.

On 9 August 2022, Mr A tried to make another payment to his account held with R, but this was blocked. After again speaking to Mr A, Lloyds processed this payment.

On 9 August 2022, Mr A again tried to withdraw his money, but was asked to pay £17,000 to enable him to access his money in the investment. Mr A did not have this money to send,

and despite pleading with the scammers to return his money over the next few days, the scammers continued to press for payment. Mr A explained he didn't understand why he needed to pay any further money to simply be able to withdraw his investment. After not being able to withdraw his money, Mr A realised he'd been scammed.

On 12 August 2022, Mr A reported the scam to Lloyds. As the money was transferred to his accounts to R and W which were UK regulated financial institutions, Lloyds was not in a position to try to recover any amounts sent to the scammer. And any money retained in Mr A's accounts with W and R was already in Mr A's possession.

Lloyds told Mr A that it could not help and refused to refund him the money he had lost. It said that the initial transactions on his accounts did not flag as unusual as the payments were being sent to accounts in his own name – and its only after so many transactions were sent to these accounts that it intervened. And whilst it asked questions with a view to protecting him from financial harm, Mr A was dishonest, so it did not discover the scam on either occasion.

Unhappy, Mr A referred his complaint to our service. Our investigator looked into the complaint and while they felt that Lloyds should have intervened on an earlier transfer for £8,200 on 30 July 2022, they didn't think an intervention at this stage would have stopped the scam in any event. They said that Mr A had been dishonest with his answers on both intervention calls with Lloyds, so it's likely that he would also have been dishonest then, and Lloyds wouldn't have discovered the scam. Mr A was dishonest during his intervention call on 9 August 2022, after he'd already tried to withdraw his money and was persuaded not to. So, it's more likely that during an earlier intervention call, before Mr A had tried to withdraw the money and was instead happy with how his trading platform was performing, he would also have misled Lloyds. There's nothing to suggest Mr A would have been forthcoming at this time. Overall, they didn't think an intervention at an earlier stage would have prevented the loss.

Mr A, through his representative didn't agree. They felt that the intervention calls were brief only asking some basic questions – gave no context as to why questions were being asked and didn't inform Mr A of the common themes of investment scams. They felt that, if Lloyds had given Mr A some context, at an earlier stage, Mr A may have been forthcoming with the truth at this point as he hadn't invested any significant sums. Scammers coaching consumers to lie to their bank is common for these types of scams and Lloyds as the expert ought to be aware of this. Mr A's representative pointed out that, Mr A hadn't been coached substantively, so if Lloyds had probed further (given its knowledge that consumers may sometimes lie) then it's likely it would have discovered the scam. Overall, Mr A felt the calls were inadequate and Lloyds had failed in its duty to protect him.

As the complaint couldn't be resolved, it was passed to me.

In my provisional decision of 21 August 2023, I set out why I was minded to not upholding the complaint. I invited both parties to provide any further submissions they may wish to make before I reached a final decision. Mr A rejected the provisional decision but made no further comments and Lloyds also didn't make any further comments.

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 my provisional decision I explained the following:

Having thought very carefully about what happened, currently, I have decided not to uphold this complaint – for broadly the same reasons as our investigator. I appreciate that Mr A will be disappointed by this, and I'm very sorry for what has happened to him. But, based on what I've seen, I can't reasonably ask Lloyds to reimburse him for any of his losses.

To begin with, where customers authorise payments from their accounts, businesses such as Lloyds are under an obligation to process such transfers. If consumers are the victim of a scam (like Mr A), the starting point is that they're responsible. To be clear, Lloyds did not scam Mr A and it is not the perpetrator of the scam.

However, financial businesses also have a duty to try to prevent their customers falling victim to scams. Businesses therefore need to strike a balance between intervening with payments to prevent scams or financial harm against the risk of unnecessarily inconveniencing or delaying legitimate transactions.

In order for me to uphold a complaint of this nature, and hold Lloyds liable for the losses instead of Mr A, I'd need to be satisfied that Lloyds failed in its duty to protect Mr A in some way, and that if it had instead done what it should have done, this either would have stopped the losses from occurring in the first place or helped to mitigate the losses once notified of the potential scam (by retrieving the money, for example).

I understand that Lloyds felt the first 12 transfers Mr A made were not unusual or suspicious as the money was being sent to accounts in Mr A's own name. However, like our investigator, I disagree. The payment Mr A sent on 30 July 2022, for £8,200 was significantly higher than any other payment going out of Mr A's account. So, in my view, it does stand out as out of the ordinary in terms of the amount being sent. Additionally, while the payment was going to Mr A's account with another UK regulated business, money is often moved between consumers' accounts as part of a range of different scams and we would expect Lloyds to be aware of this. So, I think it ought to have intervened on the payment Mr A made on 30 July 2022 for £8,200.

However, for me to uphold this complaint and hold Lloyds liable for the losses instead of Mr A, I'd need to be satisfied that had Lloyds done what it was meant to do, and intervened on this transaction, that it would have discovered the scam. I'm afraid that while I've thought carefully about Mr A's representatives' comments, I'm not persuaded that an intervention at this stage would have succeeded for broadly the same reasons set out by our investigator.

While Lloyds didn't intervene on these earlier transfers, each time it did intervene, Mr A misled Lloyds with his answers to its questions – so I'm inclined to think that he would also have misled Lloyds with his answers on any other calls. I have to assess whether Lloyds asked appropriate questions based on the information it had available to it.

When assessing whether an intervention would likely have worked, I have to consider the overall picture that likely would have been presented to Lloyds, a payment being out of the ordinary by itself isn't enough. Based on the information available to it, business have to judge whether something warrants further exploration and act reasonably based on the information available to them. We have to be mindful, that many transfers made by consumers on a daily basis are legitimate and we wouldn't want customers who are carrying out legitimate transfers to be interrogated without good reason and delay transactions unnecessarily.

Lloyds asked Mr A if he'd been asked by any third parties to move his money to a "safe account" or whether he'd been contacted regarding an investment opportunity. Mr A said he hadn't been and confirmed he was acting alone. As the money was going to his own account with a UK regulated firm, and Mr A hadn't given any indications that he was being asked to

move the money, Lloyds didn't discover the scam and processed the payments on both occasions. I think if Lloyds had called earlier on, Mr A likely would have given the same answers given that at that time he had no concerns that he was being scammed, and was happy with how his CP platform was performing.

I understand Mr A's representative feels that Lloyds should have probed further and asked more detailed investment scam related questions or given Mr A more context and information regarding investment scams. It felt that Mr A hadn't been coached substantively so if Lloyds had probed further or given more context, it would have discovered the scam. It also adds that if Lloyds has called earlier on during Mr A's scam journey, before Mr A had sent any substantive payments to the scammer, and before Mr A had built a strong relationship with the scammer, then he may have been more forthcoming with the truth, despite being told to lie. But I disagree and I'll explain why.

Lloyds did not know Mr A was sending this money onto his account with cryptocurrency exchange B, nor did it know that he was sending the money on to be invested. The only information Lloyds had was that Mr A's money was being sent to his own account with another UK regulated business, that he hadn't been contacted by any third parties and was acting alone. Consumers can fall victim to an array of different scams and I don't think it's unreasonable that Lloyds did not ascertain that Mr A was potentially losing money to an investment scam based on the information it had available to it and the answers Mr A gave him.

As explained above, Lloyds had to tailor any responses and judge whether to probe further based on the information it had available to it. So, I don't think it was unreasonable that Lloyds didn't go on to give Mr A any warnings or context specifically about investment scams, when there were no indications Mr A was at risk of this specific scam based on the information available to it.

I've also thought about what impact (if any), an earlier call would have had on Lloyds' chances of discovering the scam despite Mr A's dishonest answers. But I think given that Mr A didn't tell Lloyds the truth on his call on the 9 August 2022, despite having tried to withdraw his money once earlier – and being persuaded to keep his money in the investment, I don't accept he would have been forthcoming with the truth during a period where he was happy with how the investment appeared to be performing and having had no concerns with CP based on his dealings with it at the time. Mr A had also found no adverse information about CP during his online research. So, based on the particular circumstances on this case, I don't think an earlier intervention would have resulted in Mr A revealing the truth about what he was doing.

As explained by our investigator, the payments sent from Lloyds' account were sent to Mr A's account with R and W, so it couldn't have attempted to retrieve the money from the scammer for him. And any monies left in Mr A's account with R and W were in his own accounts. So, I don't think Lloyds could have done anything to help Mr A recover the money once alerted to the scam.

I am very sorry for the losses Mr A has suffered and I don't doubt that he has been a victim of a cruel scam. But as I don't think Lloyds would likely have discovered the scam during an earlier intervention call, and it didn't discover the scam on two actual intervention calls, I cannot fairly hold it liable for the losses that Mr A suffered.

In the absence of any new points for me to consider, I find no reason to depart from my original findings as set out in my provisional decision. I appreciate Mr A rejected my provisional decision and is likely disappointed with it. I am again sorry that he has lost such significant sums to this scam. But for the same reasons I set out in my provisional decision,

I'm afraid I'm not able to uphold his complaint.

My final decision

For the reasons explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 3 October 2023.

Asma Begum
Ombudsman