

## The complaint

Ms M complains that Lloyds Bank PLC (Lloyds) won't refund £75,000 she lost when she was the victim of a scam.

## What happened

### *What Ms M says*

Ms M says she received an insurance payment of £150,778.75 on 1 October 2018 following a cancer diagnosis. The insurer wasn't part of the Lloyds banking group. Her cousin recommended an investment opportunity to her which appealed to Ms M, as she was keen to secure her children's future. Her cousin explained that she knew the person who could arrange the investment, which involved paying money in to county court funds for a five-year period and receiving a good rate of return.

Ms M made three investment payments which are set out in the table below. The first two were to the same payee and the third was to a different payee.

Date	Amount	Method
15/01/19	£25,000	Online banking
16/01/19	£25,000	Online banking
08/04/19	£25,000	Mobile banking
<b>Total</b>	<b>£75,000</b>	

Ms M had no direct contact with the individual who was investing her funds. All communication, including details of the investment, how payment was to be made and statements were sent to Ms M by her cousin.

When Ms M's cousin could no longer get in contact with the individual who was supposed to be investing Ms M's money, she found out that Ms M had been scammed. Ms M reported the scam to Lloyds on 25 March 2020.

### *What Lloyds say*

Lloyds said it was satisfied Ms M made the payments, which were in keeping with the type and value of previous transactions made by Ms M. Lloyds went on to discuss the Contingent Reimbursement Model Code (CRM Code). It said it wasn't refunding Ms M under the Code because she ignored an effective warning and didn't have a reasonable basis for believing she was buying legitimate goods or services and was grossly negligent.

### *Our investigation so far*

The investigator who considered Ms M's complaint didn't uphold it. She said that the payments Ms M made weren't unusual or suspicious in appearance given Ms M's normal account and payment history in the period before it. Ms M had made larger payments shortly before the scam transactions, had made faster payments before and set up new payees previously. In addition, the account balance remained high, and Ms M received warnings

from Lloyds. And as Lloyds wasn't aware that Ms M was having chemotherapy treatment at the time it couldn't provide additional support. The investigator went on to say that even if Lloyds had intervened further, she didn't think the scam payments would have been prevented as Ms M made an informed decision based on the documentation provided to her and endorsed by her cousin.

Ms M wasn't happy with the investigator's findings and asked for an ombudsman's final decision, so her complaint has been passed to me to consider. She said she didn't recollect seeing any warnings before making the payments and believed the larger transactions she'd made were to accounts in her name. Ms M commented that the outcome reached by the investigator was devastating to her.

### **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 in all the circumstances of a complaint, 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.

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. And I have taken that into account when deciding what's fair and reasonable in this case.

However, 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.

This means that there are circumstances, irrespective of the payment channel used, where a bank should, in my opinion, fairly and reasonably take additional steps, or make additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm.

In its final decision letter Lloyds referred to the Contingent Reimbursement Model Code (CRM Code) but this doesn't apply to this case, as it came in to effect in May 2019 and relates to payments made after that. So I will not be considering whether Ms M ignored an effective warning or had a reasonable basis to believe she was paying for legitimate goods or services as these relate to the CRM Code.

*Did Lloyds act fairly and reasonably in Ms M's case?*

I'm sorry Ms M has had to contact us in these circumstances - I can't begin to imagine the impact of losing such a significant amount of money at a really difficult time for Ms M. I accept Ms M has been the victim of a cruel scam, but I need to decide if Lloyds did enough to protect her from the loss she suffered and what ought to be done to put things right if it didn't. Based on what I've seen, I don't think Lloyds need to do anything further. I understand that I'm delivering a very difficult message and I'd like to reassure Ms M that I've carefully considered her complaint before reaching this decision.

As I've explained above, I consider that as a matter of good practice Lloyds should have been on the lookout for out of character or unusual transactions. So I've first considered whether the payment requests Ms M made were out of character and unusual. Having reviewed Ms M's bank statements for the twelve-month period before these scam transactions I don't consider the payments Ms M made were out of character and so I consider Lloyds acted reasonably in not asking Ms M questions about them.

On 2 November 2018 Ms M made a payment of £54,829.16 and on 5 January 2019 she made another payment of £19,624.23. Both of these payments were transfers to new payees. So Ms M's first two payments of £25,000 on 15 and 16 January 2019 were not so unusual that I'd expect Lloyds to ask Ms M questions in order to be satisfied she wasn't at risk of financial harm. Even if the two payments made on 15 and 16 January 2019 are added together, they are still lower than a genuine payment made shortly before. Also, after the first two scam payments had been made Ms M still had an account balance of over £26,000.

The third payment was made in April 2019. Although it was to a new payee it also wouldn't have stood out as unusual or suspicious given the payments referred to above and the fact that two payments of £25,000 were made in January 2019. I've thought about the fact that after the first two scam transactions Ms M's balance remained above £26,000, but after this payment it reduced to just over £60. This can be seen as one of many fraud indicators. But I note that Ms M's account had a balance of £5 after a payment on 8 May 2017 and that during the period from February 2017 to 1 October 2018 (when £150,778.75 was credited) the account balance fluctuated between £5 and £1,694.18. In the circumstances, I don't consider the reduced balance and new payee would have been enough for Lloyds to be concerned that Ms M was at risk of financial harm.

I appreciate that before receiving funds from her insurer Ms M didn't make large payments from her account. But it's not unusual for significant deposits to be followed by higher than normal spending – which is what seems to have happened in this case. It is unfortunate that the scam payments followed these genuine payments and so didn't look unusual to Lloyds.

Ms M has said that the payment of £54,829.16 was made to an account in her name so shouldn't be treated as normal account activity. Her statement shows a debit card payment to another bank, so I consider it fair to take this payment in to account when considering her normal account and spending history. The other larger payment of £19,624.23 related to a Lloyds mortgage not in Ms M's name – so again I think Lloyds acted reasonably in taking it in to account when considering Ms M's normal account and payment history.

I'm sorry to hear that at the time Ms M made the payments she was undergoing chemotherapy treatment. I accept this may have influenced her decision-making at the time but haven't seen any evidence to say that Lloyds was made aware of this. Ms M had received payment under an insurance policy following her diagnosis but the insurer wasn't part of the Lloyds banking group so Lloyds would not have known about it. In the circumstances I can't reasonably say Lloyds should have provided a greater level of support to Ms M than I'd normally expect.

### *Recovery*

The scam was reported to Lloyds on 25 March 2020 and Lloyds contacted the receiving banks the same day. Both banks confirmed that no funds remained. I consider Lloyds did what I'd expect within a reasonable timescale.

### *Overall*

In spite of my natural sympathy for the situation Ms M now finds herself in I'm unable to conclude that Lloyds acted unreasonably in this case.

### **My final decision**

For the reasons I have set out above I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 30 June 2021.

Jay Hadfield  
**Ombudsman**