

## **The complaint**

Mr and Mrs M are unhappy that Lloyds Bank PLC ("Lloyds") have decided not to fully refund them after they say they were the victim of a scam.

## **What happened**

The background of this complaint has been set out in detail within our Investigator's view of 14 November 2022 and is well-known to all parties. It doesn't appear to have been disputed by either party, so, I won't repeat everything again here. But in summary, it's not in dispute that Mr and Mrs M were contacted by fraudsters, who had intercepted emails they'd had with their solicitor abroad, regarding a property Mr and Mrs M were purchasing. The fraudsters also intercepted emails between Mr and Mrs M and the owners of the property they were buying from. They tricked Mr and Mrs M into making three payments totalling £392,498.09 for what they thought were related to the property purchase, but they were actually made to accounts controlled by the fraudsters.

To provide further context, in 2017, Mr and Mrs M had attempted to purchase a property abroad. They were in touch with their solicitor, who was based abroad, in relation to this purchase. However, the intended purchase didn't go through. In 2018, Mr and Mrs M found a new property they wished to buy. At the end of December 2018, Mr and Mrs M agreed a purchase price for the new property. Delays were encountered due to some building regulations and so the exchange of the property didn't occur until July 2019. Mr and Mrs M say they were in regular contact with their solicitor abroad and, with the owners of the property they were buying.

On 2 July 2019, Mr and Mrs M successfully transferred €22,202 (£20,000) to their solicitor's euro account via a legitimate currency conversion company. Then on 19 July 2019, Mr and Mrs M sent the balance of the purchase price of £377,528.09 via one of the bank's branches. These funds were sent from Mr and Mrs M's joint current account with Lloyds. The payment was sent to the solicitor's euro account via a foreign exchange service provider – I'll refer to as C. Mr and Mrs M say at the time of this payment in branch, a second staff member advised them to call the foreign exchange service provider to confirm the bank details were correct – which they did at the time.

C received the funds and in turn converted the balance and sent this onto the solicitor's account abroad. From what I understand, the receiving bank abroad wouldn't allow the funds to be processed as it said it didn't receive sufficient information from C and so, the funds were returned to C. There was then some correspondence between Mr and Mrs M, their solicitor abroad and with whom they believed to be the solicitor's accounts manager. Mr and Mrs M were told that once the funds had returned to the UK, it would arrange an alternative UK bank account and from there the funds would be sent to the solicitor's client account. They were told the funds would be sent across in tranches.

Whilst it is not fully clear as to when the email interception occurred, it is my understanding that it is believed/suspected that the fraudsters became involved around 25 July 2019, when Mr and Mrs M have explained they received an email from whom they believed to be their solicitor, confirming the alternative UK account details. The funds were returned to C on

6 August 2019 and the funds were then returned to Mr and Mrs M's account with Lloyds on 12 August 2019.

On 13 August 2019, Mr and Mrs M attended a branch to make a payment of £377,498.09 to a new payee (the alternative account details they'd been provided with). Lloyds say a high value checklist (HVC) was completed and warnings were provided. It adds it followed Mr and Mrs M's instructions and the payment was made successfully.

It is my understanding that on 2 September 2019, Mr and Mrs M received an email from the solicitor's account manager to confirm the last amount had been sent to the solicitor's account abroad. The same day Mr and Mrs M say they received an email from whom they believed to be the owner of the property they were purchasing. The email asked Mr and Mrs M to loan the owner £9,000 to enable them to pay the deposit on the forwarding home they were buying. Mr and Mrs M told us that they were aware, due to the delays with the building regulations, that the owners were at risk of losing their new home. So, they agreed to loan the money to them. I understand that Mr and Mrs M contacted, whom at the time they believed to be, their genuine solicitor (albeit they were in touch with the fraudsters) and, believed it'd been arranged for this money to be repaid following completion.

Mrs M, via online banking transferred £9,000 to the details provided on 2 September 2019. They then received a further email from the owners to ask for a further £6,000 which they agreed to. Mrs M again via online banking sent a payment of £6,000 to the same account details on 3 September 2019.

Following the payment on 3 September 2019, Mr M messaged the owners to check the money had been received. But the owner replied letting him know that he had no knowledge of the payments or email exchange. It was at this point, Mr and Mrs M contacted Lloyds to report they'd been the victim of a scam relating to the two payments totalling £15,000.

Mr and Mrs M also contacted their solicitor and it was following this contact that they discovered they'd also been the victim of a scam in relation to the payment they made on 13 August 2019 for £377,498.09. They reported this payment to Lloyds on 4 September 2019.

Due to what happened Mr and Mrs M were unable to purchase the property and they incurred a €5,000 penalty for not doing so.

Lloyds is a signatory of the Lending Standards Board Contingent Reimbursement Model CRM Code ('CRM Code') which requires firms to reimburse customers who have been the victims of APP scams like this in all but a limited number of circumstances.

When Lloyds considered the matter and issued its final response on 8 January 2020, it said it wasn't liable for the payment of £377,498.09 as there was no bank failure and the branch gave an effective warning. It doesn't agree Mr and Mrs M met their standards under the CRM Code when sending this payment, nor did they take sufficient care in checking the validity of the beneficiary account. Lloyds was able to recover £213,958.49 in total from the beneficiary and this has been repaid to Mr and Mrs M.

Lloyds accepted 50% liability for the online payments Mrs M made of £9,000 and £6,000 on the basis that an 'effective warning' wasn't given about the scam they fell victim to. However, it held Mr and Mrs M equally liable as it felt they didn't conduct sufficient checks when making the payments. It refunded £7,500 and paid 8% simple interest and paid £100 compensation. It then issued a further response on 31 January 2020, in which Lloyds arranged to pay a further £65 – this was £40 for the costs Mr and Mrs M incurred when

providing evidence and £25 in recognition of it not responding to Mrs M's letters or addressing her within its correspondence concerning their joint account.

Mr and Mrs M remained unhappy and so they brought their complaint to our service. The complaint was initially reviewed by one of our Investigators who upheld the complaint in part. Lloyds didn't agree with this assessment. It raised the CRM Code was relevant to the payments made in this case and that the Investigator's recommendations were not in line with the CRM Code. The complaint was then referred for an Ombudsman's decision, however, it was felt further investigation was needed and so the complaint was passed to another Investigator at our service. Having reviewed everything afresh, she recommended the complaint be upheld in full. In summary, she didn't think Lloyds had been able to establish that Mr and Mrs M didn't have a reasonable basis for belief when making all the payments. Whilst she didn't agree with everything the previous Investigator had set out, she explained that as the payment of £377,498.09 was a highly remarkable payment – made in branch – she thought Lloyds should have identified there was a possible risk of an email intercept scam, given that the payment details were received by email and was shown to the branch staff. She felt the bank missed an opportunity to have had a meaningful conversation about the payment. Had this happened she thought the scam would've unravelled.

Our Investigator also acknowledged the bank's reference to the Phillip v Barclays Bank judgement where the judge took a different view about the Quincecare duty. Whilst she didn't suggest the Quincecare duty applied to this case, she acknowledged that this service has a duty to resolve complaints based on what we think is fair and reasonable in all the circumstances of the case – taking into account not just the law but also the regulators' rules and guidance, relevant codes of practice and what we consider to have been good practice at the time. This includes the CRM Code, which Lloyds is signed up to.

Lloyds didn't agree with our Investigator's assessment. In summary, it didn't accept it should be held fully liable for all the money Mr and Mrs M lost as a result of the scam. Whilst it accepted 50% liability for the two online payments they made, the bank maintain it completed its duty of care under the CRM Code for the payment made in branch and provided relevant warnings, completed a HVC, provided a fraud leaflet and asked them to complete additional checks. It adds Mr and Mrs M were confident they knew where the payment was going, and it says they refused to do any additional due diligence. On this basis, it maintains Mr and Mrs M are 100% liable for payment one and should be held equally liable with the bank for payments two and three.

Our Investigator considered the bank's response, but her assessment remained unchanged. As Lloyds continued to disagree with our Investigator's view on the complaint, it's 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.

I'm aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I am aware that Lloyds considers too high a standard has been applied to what is expected of it in terms of its obligations to 'question' its customers' instructions based on the 'Phillip

judgement', and its implications to 'the Quincecare duty'. Lloyds has now received a large number of final decisions related to APP fraud, published on our website and so I see no reason to go into detail as to all our relevant considerations.

I also think it is important to recognise that there is, in parts, limited information available – namely relating to the emails Mr and Mrs M sent and received during the scam. From the submissions, I can see Mr and Mrs M provided this information to Lloyds, although it has been unable to provide these within its submissions to our service. It has explained that it has been unable to locate these. I would've expected Lloyds to have retained this information, especially as it had requested this when investigating the matter. Given the time that's passed, I also recognise that memories of events can fade. So, where there is a difference in Mr and Mrs M's and Lloyds' version of events or limited information available, I will base my findings on what I think is more likely than not to have happened in light of the available evidence and the wider circumstances.

Having done so, I agree with the conclusions reached by the Investigator. I'm satisfied that:

- Under the terms of the CRM Code, Lloyds should have refunded Mr and Mrs M the full amount they've lost. I am not persuaded any of the permitted exceptions to reimbursement apply in the circumstances of this case.
- In the circumstances Lloyds should fairly and reasonably refund the outstanding money Mr and Mrs M lost.

I've thought carefully about Lloyds' representations regarding whether Mr and Mrs M had a reasonable basis for believing the transactions to be genuine and whether they ignored effective warnings. But they do not persuade me to reach a different view.

*Did Mr and Mrs M have a reasonable basis for belief when making the payments?*

In this case, I am not persuaded that Lloyds has demonstrated that it can choose not to reimburse Mr and Mrs M under the terms of the CRM Code because they lacked a reasonable basis for belief. As payment one was made in branch and payments two and three were made at a later day via online banking, I will explain my reasons why for each payment below.

**Payment one - £377,498.09**

- Mr and Mrs M weren't aware of how email impersonation/intercept scams worked and hadn't previously been a victim to this type of scam. They were expecting to make a payment regarding the property they were buying. In fact, they had made the payment previously in branch but due to other issues the money was returned to their account. I'm further mindful that against this backdrop, Mr and Mrs M had been dealing with their solicitor since 2017 and that their communication was predominantly by email due to them being abroad, the time difference and the cost of calls. And based on what Mr and Mrs M have told us, there was nothing concerning or out of the ordinary in terms of the tone of the emails. It has not been possible for me to see all the correspondence as it's no longer available. I note Mr and Mrs M provided a large volume of correspondence to Lloyds at the time it investigated the scam, but Lloyds has told us it is unable to provide these. Whilst this is disappointing, I've not seen any reason to doubt what Mr and Mrs M have told us. From the correspondence that I have seen, there is a discreet difference to the email address the fraudster used to that of the genuine solicitor's email address. I don't think Mr and Mrs M acted unreasonably by not noticing this.

- Lloyds has raised Mr and Mrs M didn't have a reasonable basis for belief when making the payment to the new payee details. However, I don't agree. Mr and Mrs M were expecting to make a payment as evidenced by the earlier genuine payment they made in branch in July 2019. However, for the reasons explained under what happened, the money was returned, and they were expecting to have to make the payment to a new account. Lloyds within its submissions also comments '*it's inevitable that a new payee was going to be set up for the second payment, given there was an issue with the first one*'. With this in mind, I cannot agree with this point, as the bank itself accepts that Mr and Mrs M reasonably would have needed to send the funds again via other channels/means.
- During correspondence, with whom Mr and Mrs M genuinely believed to be their solicitor and accounts manager for the firm, they queried elements relating to the new payment they needed to make. For example, they queried the compliancy of sending the money in this alternative way to remain below the threshold of €100,000 they were told for the bank abroad. Mr M copied a genuine partner of the solicitor's firm in this correspondence and received a response back from them – confirming all was legal and compliant. Although, it is my understanding that this was also likely intercepted by the fraudster. In the absence of Mr and Mrs M being aware of the scam – email interception, I think this reasonably would have added to Mr and Mrs M's belief as to the alternative way they'd been asked to resend the payment for the property. In addition to this, whilst the new payee details were for a UK account, Mr M explained that due to his career, in his experience, it wasn't unusual for a firm to have bank accounts in the UK in a different name. And as explained by our Investigator, having looked at the firm it appears to have offices both in London and abroad. With the longstanding relationship between Mr and Mrs M and their solicitor, Mr M's career experience and the response they received to the queries they made - I don't think they missed such an obvious red flag here that ought to have caused them concern about the payment they were making. I think what Mr and Mrs M had been told would have been plausible to them.
- Lloyds also highlighted that C was concerned about the receiving account. I've considered the information contained within an email dated 6 August 2019 from C, however, I'm not persuaded the contents of this email ought to have put Mr and Mrs M on notice that they might be at risk of fraud or being scammed – and more specifically that they might be the victim of an email impersonation/interception scam. The contents of the email from C raised questions about the solicitor and was not solely about the receiving account. Whilst I am in no way saying this information should have been ignored or not considered, given that Mr and Mrs M had a professional relationship dating back to 2017 with their solicitor, I don't think it unreasonable why they believed and were persuaded by what their solicitor and the fraudster would have told them, particularly as I'm not persuaded Mr and Mrs M understood how invoice intercept scams worked.
- Based on everything I've seen, I consider this to have been a sophisticated scam Mr and Mrs M fell victim to. During the time their emails were intercepted there was contact with their genuine solicitor at points. There were also calls between Mr and Mrs M and whom they believed to be the account's manager at the firm, albeit it's now come to light that this was the fraudster. During the phone contact the new account details were confirmed with whom they believed to be the genuine account manager. All of this combined, I'm satisfied, would have added further to their belief that the payment request was legitimate.

### Payments two and three

- I think an important factor to bear in mind is that at the time of making the payments of £9,000 and £6,000 Mr and Mrs M weren't aware that their solicitor's emails had been intercepted/impersonated. This came to light after they realised they'd been the victim of a scam following these two payments.
- Mr and Mrs M say they mainly communicated with the owners of the property they were buying by email. I've not seen the email communication between Mr and Mrs M and the owners. However, in the call to report these payments to Lloyds they do confirm the email address for the owner was correct and the same as the email used in the previous months. They further added that there wasn't a difference in the content/tone of the communication – this appeared consistent with their previous emails.
- Lloyds says Mr and Mrs M didn't have a reasonable basis for belief when making these payments as they didn't take steps to check the payee details. At the time of Mrs M making these two payments, she recalls seeing a smaller bank name being shown which she says she knew to be a legitimate bank. The online banking audit information is no longer available due to the time that's passed and so, I can't say for certain what Mrs M saw when making the payments at the time. But in any event, I don't find this point changes my conclusions. I say this because, on balance, I don't think the receiving bank name would've highlighted or alerted Mrs M to the risk that she might be falling victim to an email intercept scam.
- Lloyds also doesn't consider the reasons Mr and Mrs M were given for the online payments were reasonable. They feel the request for a loan should've been a red flag to them and that they should've been aware that the funds wouldn't have been sent directly to an individual. I'm afraid I don't agree. Here Mr and Mrs M, following their previous communication with the owners of the property and their knowledge of the delays with the sale, understood the owners to be at risk of losing their forwarding property. With this in mind, Mr and Mrs M have explained that while they weren't too happy about the request, it didn't come as a surprise. I also note they contacted who they thought at the time was their solicitor to take steps to check that their funds (this loan) would be safe if sent directly to the owners. To their knowledge at this time, they received a response that indicated provisions had been made and they'd get their money back. Although unbeknown to them this was from the fraudsters. So, I think Mr and Mrs M were cautious before making these payments and took appropriate steps before doing so.

With all of the above in mind, in light of all the circumstances here, and in line with the requirements of the CRM Code, I'm not satisfied Lloyds has been able to establish that when Mr and Mrs M sent the payments they did so without a reasonable basis for belief.

*Did Mr and Mrs M ignore an effective warning?*

I've carefully considered the bank's representations about the warnings it gave.

In this case, Lloyds refunded Mr and Mrs M 50% of payments two and three (£9,000 and £6,000 respectively) on the basis that an effective warning wasn't provided. Because of this, I don't need to comment on this aspect for these payments further. Here, I will focus on whether Lloyds has shown that Mr and Mrs M ignored an effective warning for the payment of £377,498.09 made in branch.

Under the provisions of the CRM Code, as a minimum, an "effective warning" needs to be understandable, clear, timely, impactful and specific. It must also provide information that

gives customers a better chance to protect themselves against being defrauded and should include appropriate actions for customers to take to protect themselves from APP scams.

The CRM Code sets out minimum criteria that a warning must meet to be an 'effective warning'. In very broad terms, it requires that a warning will be capable of countering the typical features of the generic scam type identified during the payment journey. Taking everything I've seen and been told into account, I can't safely say the warning Lloyds says it gave was relevant to the type of scam Mr and Mrs M fell victim to. I don't think it was impactful enough to affect a customer's decision making in a manner whereby the likelihood of this scam succeeding was reduced for payment one.

Before, I go on to explain why, I think it's helpful to acknowledge that there is a dispute between the bank and Mr and Mrs M as to what happened in branch. I wasn't present at the time of the branch visit and so I don't know with certainty exactly what happened or what was said at the time. So, where there is a difference in the parties' version of events or limited information available, I will base my findings on what I think is more likely than not to have happened in light of the available evidence and the wider circumstances.

Lloyds has provided a copy of the HVC that was completed with Mr and Mrs M and I can see it provides the following warning, which branch staff are instructed to read to customers, alongside issuing the customers with a fraud in-branch leaflet.

*"There are a number of scams currently in operation and customers are being contacted by individuals claiming to be from trusted organisations such as Police, HMRC, your broadband company or the Bank's fraud team: -*

- Has anybody contacted you recently and asked you to make this payment?*
- Trusted organisations will never ask you to move funds to a safe account or collect funds from you – are you sure this is not a scam?*
- I need you to read through this leaflet and confirm that you have no doubts about making this payment today. Please be aware that if this transaction is later found to be fraudulent your money could be at risk."*

The HVC captures that the purpose of Mr and Mrs M's payment is for a 'house purchase.'

Having looked at the fraud leaflet Lloyds say would've been provided to Mr and Mrs M, I can see this covered a number of different scam types such as, bank and police impersonation scams, broadband provider scams, social media scams, romance scams and rogue trader scams.

Based on the above and what I've seen, I've not seen anything that shows the warnings given covered email interception scams. The warning above doesn't cover the specific type of scam that Mr and Mrs M were falling victim to, and that Lloyds ought to have been aware was a risk, given Mr and Mrs M had told it the payment was for a house purchase and the bank was aware that they'd received the payee details by email. In the absence of anything that shows there was an emphasis or context of the inherent risk of receiving account details by email – at the time they were asking to make the payment - particularly given Lloyds, as the professionals here, would have been aware of the prevalence of this type of scam, I can't be satisfied that Lloyds' warning, met the standards required of it under the CRM Code, and it follows that I'm not persuaded Mr and Mrs M ignored an effective warning as there is no persuasive evidence this was the case.

Lloyds maintains there was a scam chat with Mr and Mrs M, but it's said Mrs M was uncooperative and, that they refused to carry out further checks. Mr and Mrs M disagree with this and say no specific questions were asked. They also strongly dispute the allegations

that Mrs M was rude or difficult to the branch staff member. Whilst the parties' recollections differ, within Lloyds' submissions to our service it also comments that the branch recollections don't explicitly say Mr and Mrs M were told to contact their solicitor abroad. As highlighted by our Investigator, the bank's testimony as to what happened in branch is confusing and somewhat contradictory in some parts. Having thought carefully about what I've been told, on balance, I can't be as persuaded as I'd need to be to say Lloyds did provide an effective warning within its discussion with Mr and Mrs M in branch. I've reached this finding having taken into account the variations in the bank's testimony and what I've set out above in regard to the HVC and the fraud leaflet.

For completeness, I think it important to note all parties' strength of feelings in relation to the branch visit. I'd like to assure all parties that I've thought carefully about what they've said in relation to what their recollections are from that visit. But here, what I need to decide is whether Lloyds are able to establish Mr and Mrs M ignored an effective warning.

It doesn't appear to be in dispute here that when the first genuine payment was made in branch in July 2019, that the bank advised Mr and Mrs M to contact the beneficiary to check the payment details. Lloyds within its submissions, when referencing the payment in July 2019, say additional checks were completed in branch which resulted in Mr and Mrs M being asked to contact the solicitors abroad. Whilst, I don't consider this to be correct as at the time of the payment in July 2019 Mr and Mrs M were sending the funds to C – a foreign exchange service provider, I am satisfied they were prompted to contact C as they did check the details. However, I'm not persuaded Lloyds sufficiently brought to life how email intercept scams work – I accept it's likely they were told to contact C but there's nothing to suggest that Mr and Mrs M understood the context behind this.

The bank's submissions in parts also suggest that they accept Mr and Mrs M weren't told to contact the solicitor abroad or why doing so was important. So, when taking all the above into consideration, I can't fairly and reasonably say that an effective warning was provided within the discussion that was had in branch in July or August 2019. For the avoidance of doubt, even if Lloyds had provided an effective warning in July 2019, the loss did not occur at that point and so it wouldn't have met the timeliness component of an effective warning.

Overall, for all the reasons I've explained within this decision, I'm not persuaded Lloyds has shown Mr and Mrs M lacked a reasonable basis for belief when making all of the payments as part of this scam, or that they ignored an effective warning.

*Could Lloyds have done anything else to prevent the scam?*

Finally, I've thought about whether, moving away from the CRM Code, Lloyds could've done anything else to prevent Mr and Mrs M falling victim to the scam. Having thought carefully about this and considering what was good industry practice at the time, while I don't find the payment was so unusual in the circumstances of this particular case (given the initial payment in July 2019), I do consider it a significant payment. And given that the purpose was for a house purchase, where the payment details were received by email, which the bank had been made aware of, I think Lloyds ought to have been on notice that Mr and Mrs M might be at risk of financial harm, specifically an email intercept scam.

Had a meaningful discussion taken place about the payment with Mr and Mrs M, I think this would've made a difference. As I've noted above, the testimony provided by the bank about the scams that it says it had with Mr and Mrs M has been confusing at points and also somewhat contradictory. Given what I've seen and been told, on balance, I'm not persuaded Mr and Mrs M were prompted to call their solicitor to verify the payment details. I'm also not persuaded for the same reasons outlined above that the bank brought to life what an email intercept scam really looked and felt like to Mr and Mrs M. Had it done so and a meaningful



conversation happened, such as the bank providing the context and prevalence of email intercept/impersonation scams – such as how email addresses can be cloned or slightly altered so that they appear to be genuine and, the significance of contacting the solicitor on a verified and trusted number to confirm the payment details, I think this more likely than not would've prevented the scam.

I am aware Mr and Mrs M had received a call from whom they believed to be the accounts manager for the solicitor's firm a few days before they made the payment. But had the bank asked open and probing questions and provided details about what email intercept scams looked and felt like – bringing the scam to life, I think on balance this would've led to them realising they'd not reached the account manager on a verified number – that they'd received calls from whom they believed to be the accounts manager but that they'd not been able to reach him when they attempted to call him directly. And, given the significant value of the payment, I think it is more likely than not that they'd have been prompted to contact the solicitor using a verified number to check the payment details. At which point they would have spoken with their genuine solicitor or the genuine accounts manager and the scam would've unravelled.

Whilst there is a dispute about the branch visit, in particular concerns that Mr and Mrs M didn't wish to follow advice given and complete further checks, based on everything I've seen, on balance I think it is more likely than not that Mr and Mrs M would've acted on the bank's advice and taken steps. I say this because, Mr and Mrs M contacted C when advised to check the account details by the branch when making the payment in July 2019. I think it's reasonable to expect professional financial businesses to be alive to the fact that email intercept scams were, and still are prevalent, and had this been made known to Mr and Mrs M, I find it unlikely they would've proceeded regardless and risked the significant sum of money which represented their life savings.

For clarity, my thoughts that Lloyds ought to have prevented the scam from the payment of £377,498.09 on 13 August 2019, have an impact on the outcome of this complaint, given I've decided Mr and Mrs M should've been reimbursed under the provisions of the CRM Code. The impact relates to the interest payable only.

### ***Impact on Mr and Mrs M***

As a result of the scam Mr and Mrs M fell victim to, they were unable to proceed with their intended purchase and to date have been unable to do so due to the large amount of money they lost. They also told us that following the scam coming to light they had difficulty sleeping and concentrating – impacting their mental health.

I do recognise the actions of the scammers, who are ultimately the party who perpetrated this fraud on Mr and Mrs M and, therefore, were the direct cause of their losses and the subsequent impact. And so, when considering carefully the impact on Mr and Mrs M, it would be disproportionate for me to attribute the impact solely on Lloyds.

However, based on what I've seen and been told, I'm persuaded that had Lloyds acted as I think it should have done, then the impact on Mr and Mrs M would have been lessened. In brief, I can see Mr and Mrs M offered to provide the bank with information to help with their claim, but that this wasn't accepted until a much later date. Mrs M also experienced unanswered letters and she wasn't addressed within the correspondence about the joint account, which caused her upset and frustration. Mrs M also felt the lack of reply/lack of being addressed within correspondence as being sexist. The bank also specifically referred to CCTV footage when declining to reimburse Mr and Mrs M for all their losses but didn't provide this. This, amongst other customer service aspects, Mr and Mrs M say exasperated the situation and caused them further anxiety and upset.

Lloyds paid £100 compensation following Mr and Mrs M's complaint being raised. It then paid a further £25 compensation for what it said was an oversight in Mrs M not being addressed in its correspondence.

Taking everything into account and thinking about the share of the impact reasonably attributable to Lloyds here, I still consider it appropriate to make an award of £300 as recommended by our Investigator for the material distress and inconvenience Mr and Mrs M have suffered.

I also consider that Lloyds could have prevented Mr and Mrs M from losing the money they did as a result of the scam and, thereby, significantly reduced the overall impact on Mr and Mrs M. For instance, on balance, I find it unlikely they would've incurred the €5,000 penalty they subsequently had to pay as a result of not completing the purchase of the property. And so, I find it fair and reasonable that Lloyds reimburse this cost in full.

### ***Paying interest***

With the above in mind, I think the bank should pay interest on the money Mr and Mrs M have lost as part of this scam. I think Mr and Mrs M have suffered a significant loss of opportunity – they haven't been able to purchase a property that they wanted to utilise and so I find 8% simple interest per annum is fair for that intangible loss in this particular case.

While I think it is fair and reasonable that Lloyds pay 8% simple interest per annum on the amount Mr and Mrs M have lost which was £377,498.09, I'm aware that money was recovered and credited back to them. £190,253.61 was recovered and credited back in October 2019 and so, from this point the interest should be paid on £187,244.48. A further £23,704.88 was recovered and credited back to Mr and Mrs M in December 2019 and so the 8% simple interest should then be paid on the remaining £163,539.60.

The payments of £9,000 and £6,000 were made by Mrs M with the intention of being a loan to the owners of the property they were buying from. Lloyds has reimbursed 50% of these payments. So, in light of this, the interest should be calculated at the rate the funds originated from which was the Club Lloyds Savers annual account (£9,000 payment). I do note that the £6,000 originated from an external bank account, but in making a pragmatic finding, I think Lloyds should apply the Club Lloyds Saver Annual account rate to remaining refund of £7,500.

### **Putting things right**

Lloyds Bank PLC, should now:

- Refund Mr and Mrs M the outstanding loss in full (I calculate this to be £163,539.60 + £7,500)
- It should pay 8% simple interest on the total loss of £377,498.09 from 13 August 2019 until 2 October 2019. This is the point that £190,253.61 was recovered and credited back to Mr and Mrs M
- It should pay 8% simple interest on £187,244.48 from 2 October 2019 until 2 December 2019 which is when a further £23,704.88 was recovered and credited back to Mr and Mrs M
- It should pay 8% simple interest on the remaining amount of £163,539.60 from 2 December 2019 to the date of settlement
- Pay interest on £7,500 at the rate of the Club Lloyds Saver annual account, on half of each payment from the date it debited to the date of settlement
- Pay a further £300 compensation for the distress and inconvenience caused
- Pay the GBP equivalent of the €5,000 fee to Mr and Mrs M, to cover the penalty they

incurred. *\*The penalty was charged on 7 February 2020, so Lloyds should use the exchange rate for EUR to GBP on 7 February 2020, according to the Bank of England website – shown as 1.1804 on this date*

- It should pay 8% simple interest on the GBP equivalent of the €5,000 fee from the 7 February 2020 until the date of settlement
- Refund the CHAPS fee of £30

### **My final decision**

My final decision is that I uphold this complaint and instruct Lloyds Bank PLC to settle the matter as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M and Mr M to accept or reject my decision before 17 March 2023.

Staci Rowland  
**Ombudsman**