

The complaint

Mr W is unhappy with how Lloyds Bank PLC (Lloyds) handled his fraud claim and the closure of his account.

What happened

In December 2020, Mr W fell victim to a scam. He made two payments to the scammer, the first being £1,100 and the second being £399.43.

Mr W realised he'd been the victim of a scam the same day it happened and reported it to Lloyds. Lloyds initially credited Mr W's account with £199.72, while they looked into his fraud claim. Lloyds was able to recover £0.43 from the beneficiary account which was refunded to Mr W's account later in December.

In August 2021, Lloyds completed their fraud investigation, and refunded Mr W the remaining balance of £1,299.28. They paid interest at 8% simple on the refund which, along with the refund of £1,299.28 was applied to the outstanding debt on Mr W's account.

The scam payments had taken Mr W's account up to its overdraft limit of £3,000. And, following some direct debits and overdraft interest charges being applied to Mr W's account, it exceeded its overdraft limit within a few days of the scam.

As Mr W's account was above its agreed limit, Lloyds sent Mr W letters in January 2021 asking him to make a payment to bring his account within its agreed limit. In February 2021, as no payment had been received, Lloyds sent a formal demand letter asking Mr W to repay his overdrawn balance in full. The letter asked Mr W to get in touch if he couldn't afford to repay the debt, so Lloyds could set up a repayment plan. The letter warned Mr W that if he didn't get in touch before 9 March 2021, they would close his account, load a default marker and sell his debt on.

Mr W says he didn't receive any of these letters. Mr W also says that due to a block placed on his account following the scam, his salary couldn't be credited to his account and was returned to his employer.

On 1 April 2021, Lloyds sent Mr W a letter asking him to get in touch in order to prevent his account from being closed. It provided a further deadline of 30 days and requested a minimum payment of just over £130. Mr W says he received this letter and responded to Lloyds by letter on 5 April 2021. Lloyds say they didn't receive a response from Mr W.

In June 2021, Lloyds sold Mr W's debt on to a debt collection company and sent him a letter explaining this.

In July 2021, Mr W raised a complaint with Lloyds. Mr W said he was unhappy with the length of time Lloyds took to complete their fraud investigation as well as the level of service he'd received from them including their decision to close his account.

Lloyds looked into Mr W's complaint and provided their written response in August 2021.

Lloyds explained they'd upheld his fraud claim and the final refund had been applied to the outstanding balance owed on Mr W's account. They also credited Mr W with a further £90.67 being the overdraft interest he was charged on the scam payments. Lloyds paid an additional £34.18 being interest for the time Mr W was without the use of the scam payment funds.

Lloyds apologised for not keeping Mr W updated on the progress of his claim, saying they should've contacted him more frequently to let him know what was happening. Lloyds say that a staff member had called them when Mr W attended a branch in December 2020, and that the branch staff were supposed to talk to Mr W about support that was available while they waited to see if any funds could be recovered from the beneficiary banks. Lloyds apologised that this information wasn't passed onto Mr W and for any upset it caused. As a result, Lloyds paid Mr W £200 in compensation. The £200 and the £34.18 were paid into Mr W's savings account with Lloyds.

Lloyds addressed the closure of Mr W's account, saying that Mr W was obliged to maintain his account within its agreed limit while the fraud investigation was happening. And highlighted that they'd sent him letters which gave notice of the action they were taking and asking him to get in touch to discuss the outstanding debt. But as the debt had now been sold on, Mr W would need to work with the debt collection agency to arrange a repayment plan.

Mr W wasn't happy with Lloyds' response, so he brought a complaint to our service.

An investigator looked into Mr W's complaint but didn't uphold it, saying the £200 Lloyds had already paid was fair. The investigator explained:

- As Lloyds had sent letters outlining the next steps if the account wasn't brought within its limit, they hadn't acted unfairly in closing the account or selling on the debt.
- While Mr W said Lloyds had promised a full refund, which was why he didn't make a payment to his account, the investigator felt it was unlikely Lloyds would've promised a full refund while the fraud claim was being investigated.
- Mr W says he has vulnerabilities that Lloyds have ignored, however, he was operating both his Lloyds account and an account with another bank and doesn't appear to have asked for assistance previously.

Mr W was unhappy with the investigator's opinion, saying:

- Lloyds ignored his fraud claim for nearly 9 months.
- Although he attended Lloyds branches on several occasions, he wasn't given any help or support despite his obvious distress.
- Lloyds didn't recognize his vulnerabilities including his difficulties in communicating with them, which should've been obvious from the letters he sent. Mr W feels Lloyds should've offered him a translation service or other support.
- Lloyds haven't put him back in the position he would've been in if the fraud didn't happen, which has caused him distress and made his situation worse.
- Lloyds blocked his account so his salary couldn't be paid in but continued to apply charges to his account.

- Lloyds closed his account, sold his debt to a third-party company and applied negative markers to his credit report.

As Mr W disagreed with the investigator's opinion, the case was passed to me to review.

Having initially reviewed the case, I thought that Lloyds had acted hastily in selling Mr W's debt on and asked them if they could buy back the debt. Lloyds say they do not have systems in place to do so unless the debt is being repaid in full – which isn't the case here. I also suggested to Lloyds that the compensation they had paid of £200 wasn't enough in the circumstances and that I was likely to increase the award to £350. Lloyds agreed to this increased payment, so I wanted to give Mr W a chance to comment on my recommendation.

My provisional decision

On 26 October 2022, I issued a provisional decision explaining I was intending to reach a slightly different outcome than the investigator and wanted to give both parties a chance to respond before I issue a final decision.

In my provisional decision I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

From what I've seen Mr W has been fully refunded for the scam payments, in line with what we would recommend if we upheld his complaint. He's been refunded in full for the payments he made, had debit interest reimbursed to put him back in the position he would've been in if the scam payments weren't made from his account, and been paid interest for the loss of use of the funds.

Has Mr W been put back in the position he would've been in if the scam hadn't happened?

Having reviewed Mr W's statements prior to the scam happening, he was already using his overdraft and had an overdrawn balance of approximately £1,500. He then made payments as part of the scam that totalled £1,499.43 which took him up to his limit of £3,000.

Since the scam happened, Lloyds have fully refunded both scam payments, which were applied to Mr W's outstanding balance.

Lloyds stopped overdraft interest charges on Mr W's account at the end of January 2021 and calculated and rebated the overdraft interest Mr W was charged on the scam payments. They've also calculated and paid credit interest to Mr W for the time he didn't have use of the money that he paid to the scammers.

As far as I can see, Mr W is back in the financial position that he would've been in if the scam hadn't happened. Lloyds have paid the refunds to the debt collection company which has reduced the outstanding balance Mr W owes, which is appropriate in the circumstances. And based on Mr W's statements, and the balance of his account prior to the scam payments, it appears Mr W is no worse off financially. So, I can't fairly ask Lloyds to pay anything more with regards to the scam payments or the impact they had on Mr W's account balance.

Did Lloyds acted fairly in closing Mr W's account and selling the debt on

Mr W is unhappy that Lloyds sold his debt onto a debt collection company, saying that he didn't receive a number of the letters Lloyds sent and explaining he didn't make a payment to reduce his outstanding balance because Lloyds had told him he would be refunded in full.

From what I've seen Lloyds placed a temporary credit into Mr W's account the day after he reported the fraud to them. I haven't seen anything that suggests Mr W was told that he would be refunded in full by Lloyds for the scam payments, prior to the completion of their fraud investigation. I think it's unlikely that Lloyds have told Mr W that, as they wouldn't know what the outcome of the fraud investigation would be.

But regardless of what Mr W was told, I think Mr W was put on notice when he received the letter from Lloyds in April 2021, which told him what would happen if he didn't make the minimum payment to bring his account within the limit.

Mr W has acknowledged that he received this letter and that he responded to it the following day. However, there is no record of Mr W making the payment as required by Lloyds, or contacting Lloyds to make a payment arrangement if he was in financial difficulty and couldn't afford the payment. The letter Mr W sent to Lloyds dated 5 April, simply refers to the fraud on his account and suggests that he attend a Lloyds branch to provide his account of what happened in relation to the scam. Mr W has said that he no longer trusted the phone and so didn't want to call Lloyds in response to their letter, but he could've gone into a local branch to discuss the letter Lloyds had sent – but I can't see that he did.

Mr W has an obligation to operate his account within its agreed limit, and he could've prevented his account from being closed by making the minimum payment of just over £130 or discussing the matter with Lloyds. Lloyds weren't asking for the full balance to be repaid at that stage which was reasonable. The terms and conditions of Mr W's account say that Lloyds can close his account in certain circumstances, and in this case I'm satisfied that Lloyds acted fairly in closing his account. Lloyds sent several letters to Mr W to make him aware of their intent to close the account and gave deadlines along with ways Mr W could prevent this from happening. Mr W has failed to engage with Lloyds which could've prevented the closure of the account.

From what I've seen, I'm satisfied that Lloyds hasn't acted unreasonably in closing Mr W's account.

But, I think that Lloyds acted too hastily in selling the debt onto a debt collection company.

I say this because the account only went over its limit due to the payments Mr W made as part of the scam. I think it would've been fairer for Lloyds to wait until the conclusion of their fraud investigation before selling the debt on. Especially considering the fact that they upheld Mr W's fraud claim and refunded the two payments into his account, which would've reduced the account within his agreed limit.

Lloyds have explained that they are unable to buy the debt back, unless the debt is being repaid in full.

I would've recommended that Lloyds buy back the debt, however, if they are unable to do so based on their systems and processes, I can't fairly require them to. Also, I'm conscious that the debt they sold was owed by Mr W, and that they've appropriately updated the outstanding balance with the refunds they've made.

If Lloyds hadn't sold the debt on, Mr W would've still been liable to repay the balance owing. So I can't see that Mr W is in a worse position financially than if Lloyds had retained the debt, rather than selling it. Although I think Lloyds selling the debt on has probably increased the distress and upset Mr W experienced in the circumstances. Therefore, Lloyds should pay Mr W £200 in compensation.

I did consider the effect on Mr W's credit report in relation to the debt being sold on. But,

most of the markers on Mr W's credit report will relate to his account being above his limit, and him not making payments to reduce the account balance – which are an accurate reflection of what happened. As I've previously explained Mr W could've made the minimum payment of around £130 and the account wouldn't have been closed or the debt sold on. So, I won't be asking Lloyds to make any adjustments to the information they submitted to the credit reporting agencies.

The level of customer service Mr W received from Lloyds

Mr W raised concerns about the length of time Lloyds took to investigate his fraud claim.

Lloyds have accepted that they didn't keep Mr W updated on the progress of his fraud claim and say that they were waiting for updates from the beneficiary banks. However, I'm not convinced that this would take eight months to complete. I haven't seen anything that explains why Lloyds took eight months to complete their investigation and feel they should've taken less time and provided a better level of service to Mr W.

Mr W has also raised a complaint about the lack of support he was given, referring to his request for a translator and his vulnerability due to his communication needs.

However, I haven't seen anything that suggests Mr W had previously told Lloyds that he had communication needs, prior to his letter from April 2021. There are no notes that he made Lloyds aware of any reasonable adjustments he may need. It appears Mr W had, up to that point, operated his account without Lloyds providing any additional support.

But, at the point Mr W wrote to Lloyds (in April 2021) I would've expected Lloyds to contact Mr W to discuss his potential vulnerability and to understand what reasonable adjustments he may have needed in order to manage his account or the fraud claim process and I can't see this happened.

Mr W is also unhappy that Lloyds didn't offer him more support during the fraud investigation, which he says was a very stressful time for him. Lloyds have acknowledged that the branch staff should've talked to Mr W about what support may've been available and apologised that this didn't happen.

Mr W has also complained about Lloyds blocking his account, which meant his salary couldn't be credited. However, a representative for Mr W has told us that Mr W wanted the block on his account, saying he didn't trust the bank. And Mr W had another account that he was using, and that he was able to have his salary paid to. So, I think it was reasonable for Lloyds to place the block and while this may've been inconvenient for Mr W, I can't say Lloyds acted unreasonably in the circumstances.

Overall, I think there were a number of things that Lloyds could've handled better. Because of this, I think Lloyds should pay an additional £150 in compensation, increasing the overall award for compensation to £350.

I appreciate that Mr W may want a higher level of compensation, but the awards we make are modest. Also, I can't hold Lloyds responsible for the actions of the fraudster or the impact the fraud had on Mr W. I can only look at Lloyds' actions, and where they could've acted more fairly or reasonably – make an award based on the impact of them. Having very carefully considered what happened, including everything Mr W has told me, I think that an overall award of £350 is fair. This is not in addition to the £200 Lloyds has already offered.

My provisional decision

My provisional decision was that I intended to uphold this complaint and ask Lloyds Bank PLC to pay Mr W £350 in compensation. I said they could deduct the £200 compensation they initially offered, if it has already been paid to Mr W.

Responses to the provisional decision

Lloyds responded accepting the provisional decision and saying it had nothing further to add.

Mr W responded and provided a lengthy submission. The main points he raised which relate to this case are:

- Lloyds have failed by not communicating clearly with him. Some of the letters weren't received and he didn't know that if he paid £130, his account wouldn't be sold to the debt collection company.
- Lloyds failed to help him when he was vulnerable.
- He believes the balance owing has increased since it was sold to the debt collection company.
- If the debt wasn't sold on, his credit report wouldn't show the arrears. Mr W pointed to his Lloyds overdraft not showing on a copy of his credit report which he gave to our service.

The point Mr W raised about his Lloyds overdraft not showing on his credit report, was new and hadn't been addressed. So, I contacted Lloyds, who confirmed they report to three credit references agencies and the free credit report Mr W had obtained wasn't provided by one of those agencies. This means that Mr W's overdraft has been reported and will show on his credit report when supplied by one of those agencies. The details of which agencies it was reported to were shared with Mr W.

I also raised Mr W's point regarding the negative markers Lloyds had registered against him and the impact they were having on his credit report. Having discussed this with Lloyds, they agreed to remove all of the negative markers associated with Mr W's account defaulting and the debt being sold on.

As Mr W raised concerns about the balance the debt collection company say is outstanding, I contacted the debt collection company. They confirmed that the amount sold to them was the actual balance owing on Mr W's account at the time it was closed. Also, that no interest or charges had been added and that the balance hasn't increased. This information was provided to Mr W along with confirmation that he was being asked to pay the correct amount.

Mr W provided a further response based on our update to him. This included the same issues that he raised in response to the provisional decision – with no new points raised.

As both parties have now provided their responses to the provisional decision, I've reconsidered the case.

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 not going to address each and every point that Mr W has made. Instead, I've focused on the relevant points that get to the heart of his complaint and the outcome I've reached. But

I'd like to reassure Mr W that I have read his responses in full and considered everything he's said.

A number of the points Mr W raised didn't relate to his complaint against Lloyds. He provided letters that he'd sent to another company and referred to entries from them showing on his credit report. In this complaint, I can only look at and address Mr W's complaint about Lloyds and the actions taken by Lloyds.

Mr W is concerned about the negative impact on his credit report of Lloyds selling on his debt to a debt collection company. This company has applied default markers because Mr W hasn't made any payments since they've had his debt. Having reviewed a copy of his credit report, Mr W couldn't see any defaults or negative markers posted by Lloyds, so felt his credit report was negatively impacted purely because Lloyds sold on his debt. Mr W says that if the debt collection company's markers were removed, his credit report/score would improve.

Lloyds have agreed to remove all the negative markers related to Mr W's account defaulting and the debt being sold on. Based on Lloyds removing those markers, I'm satisfied they will put Mr W back in the position he would've been in (in relation to his credit file) if his account hadn't been defaulted. However, I can't ask Lloyds to affect markers loaded by the third-party debt collection company as they are a separate legal entity. So, Lloyds will have taken the necessary steps to rectify Mr W's credit report based on the information they supplied to the credit reference agencies.

If Mr W is unhappy with markers added by the third-party debt collection company, he will need to raise that with them directly. Although, it's worth noting, I'm satisfied that the balance the debt collection company is asking Mr W to pay is correct. The debt collection company have reduced the balance by the £1,299.28 Lloyds refunded. If Mr W wants to improve his credit score, he could pay off the full balance so the debt shows as satisfied on his credit report.

A number of the points that Mr W raised were addressed in the provisional decision. This included Lloyds not making him aware that a payment was needed to prevent his account being closed or the debt sold on. However, Mr W confirmed he received the letter sent by Lloyds in April 2021, which advised him that a minimum payment of £130 would prevent Lloyds taking further action in relation to his account – this letter was prior to the account being closed or the debt being sold on. In response to this letter, Mr W wrote to Lloyds. But Mr W's letter to Lloyds focused on him wanting to attend a Lloyds branch to give a detailed account of the scam he fell victim to. It didn't address the balance of his account or Lloyds' request for him to make a payment. So, I can't agree that Lloyds didn't make him aware of the steps he could take to prevent further action being taken.

I realise that Mr W is very unhappy with the level of service he has received from Lloyds. And Lloyds have accepted that when Mr W went into the branch, the branch staff should've talked to Mr W about what support was available to him. I also think Lloyds acted hastily in selling on Mr W's debt and that they should've reached an outcome on his fraud claim much sooner than they did.

Having considered everything that Mr W has said in response to the provisional decision and in more recent emails, I see no reason to reach a different outcome than I did in my provisional decision. Therefore, Lloyds should pay Mr W £350 in compensation for the poor level of service they provided. But, they can deduct the £200 they've already offered Mr W if they have already paid it to him. They should also remove all negative markers they reported to the credit reference agencies in relation to his account defaulting and the debt being sold on.

Putting things right

To put things right Lloyds Bank PLC should pay Mr W £350 compensation, but they can deduct the £200 they initially offered if they've already paid it to Mr W. They should also remove all negative credit markers they've registered against him in relation to his account defaulting or the debt being sold on.

My final decision

My final decision is that I uphold this complaint against Lloyds Bank PLC and require them to compensate Mr W, as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 March 2023.

Lisa Lowe
Ombudsman