

The complaint

Mrs K complains that Lloyds Bank PLC hasn't refunded her after she paid money as a deposit for a car that turned out to have been a scam.

Mrs K's husband had most of the dealings with the seller, and so I will refer to both Mrs K and her husband in what follows. However, the payment was made from Mrs K's sole account and the complaint about Lloyds is therefore brought in her sole name.

What happened

In August 2022, Mrs K and her husband were looking to purchase a car, and found one advertised for sale on a social media platform.

The car looked suitable for their needs. It was relatively low mileage for its age – under 30,000 miles for a 2015 plate. And the advert said the car had been well looked after. The advertised price was £2,999.

The seller said the car was being sold cheaply because they needed to sell quickly having started working away from home. And while the price was low, Mrs K says her relative had bought the same make of car for slightly less (albeit that other car had a different engine, was slightly older, had four times the mileage and was needing repairs). So, Mrs K says she thought it was a good deal but not too good to be true.

The seller told them they'd had a lot of interest, but most were time wasters. The seller said to prove they were serious about buying the car, they'd need to pay a deposit up front and that this needed to be £750.

Mr and Mrs K say they'd not previously bought a car without seeing it first or bought through social media. Mrs K's husband asked to speak to the seller by phone, and asked about viewing the car first, but the seller said neither was possible. The seller said they were working away from home, and the car couldn't be viewed until the weekend.

The seller sent over the account details for the deposit payment. But when Mrs K entered these into her online banking, she received a warning that the name on the receiving account didn't match the name she'd entered.

Mrs K didn't make the payment and Mr K checked the discrepancy with the seller. The seller said her name had changed due to marriage. The seller said not to worry about it, that the account was right and that they should just send the payment.

Mrs K says she checked the seller's name on social media as far as she could. Although the seller's profile was private (as is common), she saw the profile picture matched that of the seller. She carried out a vehicle check, which confirmed the advertised car had no outstanding finance and that the vehicle details looked right. While Mrs K said they'd normally have asked a seller to send them a copy of the vehicle's logbook, she didn't think they'd done so on this occasion.

It seems at this point Mr and Mrs K spoke with their daughter, who suggested sending a small initial payment and not telling the seller they'd done this – to see if the seller could then tell them how much had been received in the account.

Mrs K sent an initial payment of £1 and then checked with the seller how much she'd received. When that was done, reassured that the person she was messaging had access to that bank account, Mrs K sent the remaining £749.

Later that day the seller asked them to pay the rest of the cost of the car, saying she was on her way to buy a new one and so needed the money now. Mrs K's husband messaged the seller back refusing this. He explained that he thought the deposit amount of £750 was already a high amount, and the seller hadn't phoned as had been promised.

That night Mrs K contacted Lloyds to report what had happened as being a suspected scam. Over the next few days, after several more messages with promises that the car was being delivered, the seller didn't turn up with the vehicle and stopped responding to messages.

Lloyds tried to recover Mrs K's money from the receiving account. But unfortunately, by the time the scam had come to light, almost all the money had been removed and only £49.37 remained to be recovered. This left her out of pocket by just over £700.

Lloyds is signed up to the Lending Standards Board's Contingent Reimbursement Model (the CRM Code) which can offer additional protection from Authorised Push Payment scams (APP scams) such as this one. But Lloyds said it wouldn't refund Mrs K because she hadn't been sufficiently cautious when deciding to go ahead and make the payments and it hadn't been at fault.

Mrs K didn't agree and referred a complaint about the outcome to this service for an independent review.

Our Investigator looked into everything that had happened. But she didn't think Lloyds had treated Mrs K unfairly and didn't think the bank needed to refund the remaining unrecovered money. The Investigator thought the price was simply too good to be true. She said the price advertised was around one third of the normal market value for that car, taking into account its age and low mileage.

She acknowledged that Mrs K and her husband had taken some steps to check everything was ok before sending the payment but didn't think this justified overlooking the price and the other signs that should have been a concern. So, the Investigator didn't think Lloyds need to refund Mrs K under the terms of the CRM Code.

Mrs K didn't accept the Investigator's assessment. Her complaint has been referred to me to reach a final decision on the matter.

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 be good industry practice at the time.

Having done so, I have reached the same conclusions as those of the investigator. I'll

explain why.

I'm very sorry to hear about what happened to Mrs K and her husband. I can understand why Mrs K strongly wants her losses to be refunded to her.

However, while I have sympathy for Mrs K in what happened, I have to recognise that the principal cause of her losses here was the scammer who deceived her and her husband.

I must also take into account that Lloyds has a primary obligation to carry out the payment instructions its customers give it. As a starting point, a customer is therefore assumed liable for a payment they have instructed to be made.

As I've mentioned above, the CRM Code can provide additional protection for the victims of APP scams. I'm satisfied that the payments Mrs K made fall within the scope of the CRM Code. But despite offering additional protections, the CRM Code includes provisions allowing a firm not to reimburse APP scam losses fully in some situations.

Relevant here, this includes where the customer made a payment without a reasonable basis for believing that the person the customer was dealing with was legitimate, selling genuine goods, or that the payee was the person the customer was expecting to pay.

Lloyds says this exception applies here. It reviewed Mrs K's claim against the CRM Code, but it didn't think it was required to reimburse her.

In deciding this complaint, I must first determine whether Lloyds has established this exception to reimbursement can be fairly applied – in other words, that Mrs K made the payments without having a reasonable basis for believing this was legitimate.

In determining these points, I have carefully considered everything Mrs K has submitted as well as the evidence submitted by the bank.

Firstly, I think the price was too good to be true. From what I've seen the market value for this vehicle at the time would, conservatively, be more than double what was being asked for it. I don't doubt the offer would have appeared very enticing, considering how cheap it was in comparison to the typical selling price. But a very low price can be one indicator that there is potentially something untoward about the seller or the proposed deal.

I know Mrs K has referred to a vehicle bought by her relative as being slightly lower in price and that this had helped reassure her. But from what Mrs K has described, that vehicle had a different engine type and had a much higher mileage than the advertised vehicle. The seller's explanation as to why the price was so low wasn't persuasive – not wanting timewasters and just looking to sell isn't an understandable reason to significantly undervalue the car.

I understand Mrs K's argument that sometimes vehicles can be bought at a lower than usual cost, but all things considered I think the low value of the car indicated higher than usual risk here and that this should have led to Mr and Mrs K to take especial care about whether or not to go ahead.

And besides the low price, there were other factors here that should have raised additional concerns about the legitimacy of the seller.

When Mr and Mrs K tried to speak to the seller by phone and asked about viewing the car before making any payment the seller declined both requests. Mr and Mrs K noted also they'd never before committed to buying a car without seeing it first and would normally

request the logbook first (which wasn't provided by the seller here). The steps they wanted to take were reasonable ones, and when the seller declined the requests, that should have raised a significant red-flag about the legitimacy of the sale.

Further, the car's location was advertised as being in Yorkshire, and the seller said they were working in Liverpool. But Mr and Mrs K were given an address in Essex to view the car. While it's possible the seller could have come up with a plausible explanation for the discrepancy, Mr and Mrs K didn't query this.

Adding to the signs that all might not be as it seemed, the seller's name didn't match when the payment was first attempted – the seller said this was due to her change of name on marriage yet didn't provide her new name which would have enabled Mrs K to verify it against the payee account.

In short there were a number of factors indicating that things might not be as they seemed with the sale. Yet the seller was insisting on a considerable deposit payment (a full quarter of the total cost), despite there being very little to give Mr and Mrs K reassurance.

Sending a token sum initially (the payment of £1) reduced the risk that the seller had provided an incorrect account number by mistake. But it didn't address the main risk that the advert and seller were not legitimate.

Without the ability to carry out further checks to satisfy themselves the seller was legitimate I think Mr and Mrs K were putting a lot of trust in a stranger. Buying a car on social media, sight unseen, and at a considerable discount was always a big risk.

There were enough red flags in the price and other circumstances around the sale that I think Mr and Mrs K would reasonably have had real concerns. Mrs K makes the point that she wasn't sure what additional checks she could have done. But I think some of the things they asked the seller for were the right things to check (ie seeing the paperwork and the vehicle before parting with any money). When the seller gave excuses for this not being possible this was a significant red-flag.

I think Mr and Mrs K, at that point, should have considered walking away from the deal – it was too good to be true, there were a number of discrepancies, and they couldn't carry out the checks they'd normally have done. Unfortunately, I think paying a very large deposit payment in that situation was an unreasonable and unnecessary risk to have taken.

With all of this in mind, and while I am very sorry to hear how Mrs K and her husband fell victim to this scam, I don't find that Mrs K had a reasonable basis for believing the payment was for genuine goods or services; and/or the person or business with whom her and her husband transacted was legitimate.

In terms of the CRM Code, where a customer made a payment without having a reasonable basis for believing they were paying for legitimate goods from a legitimate seller, or that they were paying the person they believed they were, then their bank does not need to refund them for their loss even when this was due to a scam. I think Lloyds is entitled to rely on that here – I think it has done enough to establish that Mrs K didn't have a reasonable basis for believing this was legitimate.

Based on what Lloyds could reasonably have known at the time, this payment wasn't one which would have particularly stood out as being at risk of being connected to a fraud or scam. With this in mind I don't think Lloyds needed to give an 'Effective Warning' under the terms of the CRM Code, so I cannot find it at fault for not doing so here. And I don't think Lloyds needed to take specific steps at the time, such as intervening directly before it would

release Mrs K's payment.

When Lloyds was made aware of what had happened it acted appropriately and tried to recover the funds, although only a small part remained – the majority having been moved on very quickly after the second payment had been made.

In short, I don't find Lloyds is to blame for Mrs K's losses. I don't find it is liable to refund Mrs K under the terms of the CRM Code either.

In saying this, I want to stress that I am very sorry to hear about what happened to Mrs K and I am sorry she has lost out here. She and her husband were the victims of a cynical scam cruelly designed to defraud them of their money and provide nothing in return. I appreciate that they've lost a significant amount because of what happened. But I can only look at what Lloyds was and is required to do – I have no power to consider the actions of the criminal scammers who were ultimately responsible for Mrs K's loss. And I don't find Lloyds is required to refund her under the CRM Code, nor that the bank was at fault in making the payment Mrs K had instructed it to make or for any other reason.

My final decision

For the reasons given above, I do not uphold Mrs K's complaint about Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 18 April 2023.

Stephen Dickie
Ombudsman