

The complaint

Mr E complains that his bank Lloyds Bank PLC (“Lloyds”) has refused to refund the money he has lost following him falling victim to a scam.

What happened

In my provisional decision sent in April 2023 I said:

‘It has not been disputed that Mr E has fallen victim to a cruel scam. The evidence provided by both Mr E and Lloyds sets out what happened clearly. What is in dispute is whether Lloyds should refund the remaining funds Mr E lost due to the scam.

Recovering the payments Mr E made

The payments Mr E made throughout the scam were international transfers, so Lloyds had limited methods of recovery available to it. Lloyds contacted the banks where the payee accounts were held to request the return of Mr E’s funds as we would have expected, and £17,000 was returned. Unfortunately, none of the other payments were recovered. This was the only route available to Lloyds of recovering the funds Mr E had sent as part of the investments he had made with X.

As I’m satisfied none of the remaining payments in dispute could have been recovered by Lloyds, I’ll now consider whether it could have prevented some or all of them.

Should Lloyds have reasonably prevented the payments Mr E made?

Mr E has accepted he authorised the payments that were made from his account with Lloyds, albeit on X’s instruction. So, the starting point here is that Mr E is responsible. However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Lloyds should have been aware of the scam and stepped in to prevent the payments from being made.

Mr E made the first payment in relation this scam on 14 July 2020 in a branch for £5,000. Although this payment was being made to a new payee, considering the relatively low value of this payment I don’t think it’s unreasonable that Lloyds did not have concerns about it. It would not be reasonable for me to say that Lloyds should step in and prevent its customers from making relatively low payments every time they tried to pay a new business.

Mr E made a second payment on 20 July 2020 in a branch for £12,000. Lloyds has provided notes from its system to show that the second payment of £12,000 required a manager’s approval.

The £12,000 payment was a significant amount and was clearly being made as part of an investment so I would have expected Lloyds to step in and have a meaningful conversation with Mr E about what the payment was for. Mr E as told us he remembers a very brief

conversation when one of the payments was made where he was asked if he knew where the payment was going, and he answered honestly that he did. He also remembers a manager making a passing comment that “when it’s gone its gone”, but no further conversation took place.

Lloyds have told us it would have asked Mr E Questions about the payments he was making, but I haven’t seen enough to say this was the case.

If Lloyds had such a conversation with Mr E I think it would have uncovered the fact that Mr E was making investments through X. A check on the FCA database would have shown that the FCA had published a warning on its website about X on 7 May 2020.

The warning stated:

‘This is an unauthorised firm that may be providing financial services or products in the UK without our permission. If you deal with unauthorised firms, you will have less protection if things go wrong.’

It also said:

‘This firm is not authorised by us and is targeting people in the UK.’

In addition to the above, the FCA offered a consumer helpline that Mr E could have contacted.

While Mr E found X himself following an online search, I don’t think this means he wasn’t targeted as a person in the UK, these kinds of scams are sophisticated, and advertisements online would likely be aimed at people from the UK.

If Lloyds had stepped in, as I think it should have, and explained the FCA warning to Mr E I think he would have sought further guidance before making any further payments, and I think had Mr E called the helpline offered by the FCA, it’s unlikely he would have made any further payments in relation to the scam following the first payment he made on 14 July 2020.

If Lloyds did provide this information to Mr E and he had been adamant he wanted to make the payments anyway, I would have expected Lloyds to have at least documented this conversation and I haven’t seen any evidence to support this.

So, I think Lloyds missed an opportunity to prevent the scam from progressing and should refund Mr E the amount he lost to the scam following the initial payment he made of £5,000, less the amounts Lloyds was able to recover.

Did Mr E contribute to his loss?

I think this was a sophisticated scam and Mr E couldn’t have reasonably foreseen that he was dealing with a scammer. Mr E was able to see balances on his trading account with X, and I don’t think he could have reasonably known that the trading balance was likely fake or a simulation – unless prompted by his trusted bank.

Our Investigator explained that Mr E had approached X about negative reviews published online about it. I have reviewed this conversation sent to us by Mr E. When X was approached it responded to Mr E’s query about the negative reviews explaining other investment companies often created negative reviews to discredit the competition.

Given the trust X had built with Mr E by this stage I don’t think it was unreasonable that Mr E accepted X’s explanation. Overall, I don’t think Mr E contributed to his losses, so I don’t

suggest the overall settlement be reduced.'

I gave Lloyds and Mr E time to respond.

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.

Mr E didn't provide anything more for me to consider. Lloyds didn't provide any further evidence but did respond. In summary Lloyds said the actions of X should have caused Mr E to have concerns and that Mr E should have done more himself to confirm he was making legitimate investments.

I appreciate the points Lloyds raised, but I considered these points when arriving at my provisional decision and they do not change the decision I have come to. As I explained, I think Mr E fell victim to a sophisticated scam that he would not reasonably have been aware was a scam. Had Lloyds stepped in at a reasonable time, as it should have done, I think it's unlikely Mr E would have lost the money he did.

I have decided not to change the outcome reached in my provisional decision.

Putting things right

Lloyds Bank PLC should therefore pay Mr E £27,340.83 (total of the amount he lost to the scam less the first payment of £5,000 and the refunds he received totalling £17,000).

To compensate Mr E for having been deprived of this money, Lloyds Bank PLC should also pay Mr E interest on the loss. The funds appear to originate from a savings account (paid to the current account through internal transfers), so Lloyds Bank PLC should add interest to that sum (less any tax properly deductible) at the relevant account rate(s) from the dates of loss to the date of refund.

My final decision

I uphold this complaint and require Lloyds Bank PLC to put things right by doing what I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 30 June 2023.

Terry Woodham
Ombudsman