

The complaint

Mr P complains that Lloyds Bank PLC (Lloyds) is refusing to refund him the amount he lost as the result of a scam.

Mr P is being represented by a third party. To keep things simple, I will refer to Mr P throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mr P came across an advertisement on YouTube for a business called "Click Money" (X) specialising in cryptocurrency investment. Mr P clicked on the advertisement and completed his details on a data capture form.

Mr P received a call from X and it explained the investment to Mr P. Mr P was required to download the screen sharing application AnyDesk which allowed X access to his device in order to help him set up a trading account.

Mr P was advised to setup accounts with both Wise and Binance, which is a genuine cryptocurrency exchange. X told Mr P it would be trading on his behalf and would receive commission. Mr P tells us he carried out online research about X and could see it had good reviews.

Mr P could see he was making a good profit from the investment so invested further. On 21 June 2022 Mr P attempted to make a payment into the scam for £4,960. This payment was stopped by Lloyds and the scam was uncovered.

Below are a list of payments Mr P made into the scam:

Date	Payee	Payment Method	Amount
17 June 2022	Wise	Debit Card	£860.09
17 June 2022	Wise	Debit Card	£1,003.00
20 June 2022	Wise	Debit Card	£2,006.00
21 June 2022	Wise	Debit Card	£4,964.85
21 June 2022	Wise payment stopped	Transfer	£4,960.00

Our Investigator considered Mr P's complaint but didn't think it should be upheld. Mr P disagreed, so this complaint has been passed to me to decide.

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.

It has not been disputed that Mr P has fallen victim to a cruel scam. The evidence provided by both Mr P and Lloyds sets out what happened. What is in dispute is whether Lloyds

should refund the money Mr P lost due to the scam.

Recovering the payments Mr P made

Mr P made payments into the scam via his debit card. When payments are made by card the only recovery option Lloyds has is to request a chargeback.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Mr P was dealing with X, which was the business that instigated the scam. But Mr P didn't make the debit card payments to X directly, he paid a separate account in his own name with Wise and then made payments from that account to Binance, and then from that account to X. This is important because Lloyds was only able to process chargeback claims against Wise, not another party.

The fact that Mr P transferred the money from Wise to Binance, and the cryptocurrency was later transferred elsewhere – to the scammers – doesn't give rise to a valid chargeback claim against Wise.

Should Lloyds have reasonably prevented the payments Mr P made?

It has been accepted that Mr P authorised the payments that were made from his account with Lloyds, albeit on X's instruction. So, the starting point here is that Mr P 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 into question Mr P about the payments he was making. And if it had questioned Mr P, would it have been able to prevent the scam taking place.

The first four payments Mr P made into the scam were for relatively low values totalling less than £5,000 each day. These payments were being made to another account in Mr P's own name that he had control over. I don't think it's unreasonable that Lloyds' fraud prevention systems were not triggered prompting it to step in.

The fifth payment Mr P attempted was the second payment on the same day bringing the total value of the payments for the day to almost £10,000. I think it's reasonable that Lloyds' fraud prevention systems were triggered by this payment, and it did step in preventing Mr P from incurring any further loss.

As I think Lloyds stepped in at a reasonable time and uncovered the scam Mr P was falling victim to it is not responsible for any of Mr P's previous payments made into the scam and does not have to provide any refund.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 22 February 2024.

Terry Woodham
Ombudsman