

The complaint

Company W complains that Lloyds Bank PLC (“Lloyds”) has failed to refund over £19,000 it lost to a scam.

What happened

One of W’s employees (“Ms P”) fell victim to a scam on 24 November 2021 when she ended up making 12 payments totalling nearly £60,000 from W’s company account to a fraudster. This was a result of a scammer purporting to be from BT who reported that her internet connection had been compromised and that she should carry out some ‘test transactions’ to improve security.

W complained that Lloyds failed to prevent the scam despite there being highly unusual activity on the account. It also said that it shouldn’t have executed the payments at all as it was under the impression that Ms P’s mandate to make payments had been removed.

Lloyds said that W’s request to amend the payment mandates had been returned as the forms had not been completed correctly, so no amendment was made. However, it accepted that it should have intervened on the fifth payment made from W’s account in light of the unusual activity and therefore agreed to refund £39,355.

W referred the matter to this service as it said that Lloyds should refund the first four payments lost to the scam as well – totalling £19,928:

| Date | Amount | Running total |
|------------------|--------|---------------|
| 24/11/2021 13:25 | £4,982 | £4,982 |
| 24/11/2021 13:46 | £4,982 | £9,964 |
| 24/11/2021 13:51 | £4,982 | £14,946 |
| 24/11/2021 14:19 | £4,982 | £19,928 |

Despite several requests, Lloyds failed to provide our service with its file on W’s complaint. In the absence of any information from Lloyds – and based on the information provided by W – our investigator upheld the complaint. She was satisfied the payments should have been refunded under the Contingent Reimbursement Model and so recommended that Lloyds refund the remaining four payments. Lloyds failed to provide any substantive response to the investigator’s findings, so the matter has been escalated to me to determine.

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.

Having done so, I agree with the conclusions reached by the investigator for the following reasons:

- As I've set out in the background to this complaint, Lloyds has failed to provide this service with its file of evidence in relation to W's complaint despite several requests. DISP 3.5.9 (3) allows me to reach a decision on the basis of what has been supplied and also to take account of the failure by a party to provide information that has been requested.
- In terms of who had authority to make payments from W's account, Lloyds said it returned the paperwork requesting an amendment to the account mandate due to it being completed incorrectly and so no variation was made. The account was set up as requiring two people to authorise a payment online, and it doesn't appear that W took any steps to amend the Online Payment Controls for the account. So, I don't think Lloyds acted unreasonably by executing the payment instructions given they were authorised by Ms P and received secondary authorisation from another party on the account as well. It therefore no longer appears to be in dispute that the payments were in fact authorised by or on behalf of W with its consent.
- The payments made to the scammers from W's account were authorised push payments ("APPs"). Lloyds is a signatory to the Contingent Reimbursement Model (CRM Code), which requires firms to reimburse customers who have fallen victim to APP scams like the one W has fallen victim to, in all but a limited number of circumstances. And I'm satisfied the CRM Code applies to the four transactions made from W's account as listed in the payment table above.
- Other than making representations about whether our service has the relevant authority from W to consider the complaint – which I'm satisfied we do, having received consent from its director – Lloyds hasn't put forwards any other substantive reasons as to why any of the exceptions within the Code should apply. And having reviewed the evidence, I'm not persuaded that any of the exceptions would apply either. I've not seen evidence, for example, that an effective warning was provided that was ignored by Ms P. And neither do I consider there to be enough basis to say that she had no reasonable basis for believing what she was being told to do.
- As a result, I'm not persuaded Lloyds has considered W's claim fairly under the CRM Code. I'm therefore satisfied it would be fair and reasonable in the circumstances for Lloyds to reimburse W the amount it lost through the four outstanding payments Lloyds chose not to refund.
- Even outside the provisions of the CRM Code, I also agree with the investigator's conclusions in that Lloyds ought to have intervened when the third payment of £4,982 was being attempted from W's account, as it then became the third such payment to be made from the account in quick succession. This should have been viewed as suspicious and prompted Lloyds to question Ms P about the payment she was making. Had it done so, I'm satisfied the scam would have been revealed and any further loss prevented from that point on.

My final decision

For the reasons given above, I uphold this complaint and direct Lloyds Bank PLC to:

- Refund the four disputed payments that were lost to the scam – totalling £19,928
- Pay 8% simple interest per year on this amount*

**For the first two transactions, interest should be calculated from the date W's claim was declined under the CRM Code until the date of settlement. For the third and fourth transactions, interest should be calculated from the date the payments were made until the date of settlement, as I'm satisfied Lloyd's ought to have intervened prior to these payments being made.*

Under the rules of the Financial Ombudsman Service, I'm required to ask W to accept or reject my decision before 28 August 2023.

Jack Ferris
Ombudsman