

The complaint

Mr C has complained that Lloyds Bank PLC (Lloyds) has refused to refund him the money he lost as a result of a scam.

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 C found out a close family member was unwell and needed to raise some additional funds. Mr C received a message via a social media platform about cryptocurrency. Mr C started talking to the person (X) that sent him the message via the social media platform and then via WhatsApp.

X explained how the investment would work and sent Mr C a link to a website so he could sign up.

Mr C started by making a small investment and could see he had made a profit. Mr C was given the option to withdraw his profits or make a further investment to gain higher returns. Mr C decided to invest a further £1,000 and in just five days his account balance stood at \$26,000.

Mr C decided to make a withdrawal from the investment but was told he would have to provide identification documents and upgrade his account first at an additional cost. X offered to help fund the upgrade, but this was unsuccessful, and Mr C paid the full amount requested.

The balance on Mr C's account grew further to over \$40,000 and again he requested a withdrawal. Again, Mr C was asked to make a further payment before the withdrawal could be processed. Before making any further payments Mr C researched the trading platform online and found he had been scammed.

Mr C made the following payments in relation to the scam:

Date	Payee	Amount	Payment method
16 June 2022	Moonpay	£100	Debit Card
1 July 2022	Moonpay	£50	Debit Card
8 July 2022	Moonpay	£1,000	Debit Card
19 July 2022	Moonpay	£1,200	Debit Card
19 July 2022	Moonpay	£2,700	Debit Card
25 July 2022	Moonpay	£2,000	Debit Card

Mr C has not been able to recover any of the funds he sent in relation to the scam.

Our Investigator considered Mr C's complaint. She said Lloyds should have stepped in when Mr C made the payment of £1,000 on 8 July 2022 and questioned him about what the payment was for. She said Lloyds would likely have uncovered the scam if it had stepped in and therefore Lloyds was partially responsible for Mr C's loss from this payment forward.

Our Investigator also said Mr C should share some of the responsibility for his loss and thought a 30% deduction to the compensation Mr C would receive was reasonable.

Lloyds responded to our Investigator's view and said it agreed it should have stepped in on 8 July 2022, but that Mr C should be held equally responsible for his loss and therefore a 50% deduction was fair.

Our Investigator agreed with Lloyds and the new offer was put to Mr C. Mr C initially accepted the new offer based on the monetary figure quoted by Lloyds. Lloyds has since returned explaining it had misquoted the monetary amount. 50% of the loss from the 8 July 2022 was lower than it has previously worked out.

Unhappy with the monetary amount he would receive Mr C has decided not to accept Lloyds' offer and has asked for his complaint to be decided by an ombudsman.

This complaint has now 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 C has fallen victim to a cruel scam. The evidence provided by both Mr C and Lloyds sets out what happened. What is in dispute is whether Lloyds should refund more of the money Mr C lost due to the scam.

Recovering the payments Mr C made

Lloyds was unable to process a chargeback for the payments Mr C made in relation to this scam.

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 C made his payments to Moonpay, a legitimate cryptocurrency exchange. Mr C's loss took place when his funds were moved from his account with Moonpay to the scammer.

As the scammer was not a party to the payments Mr C made from his Lloyds account, Mr C does not have a valid claim against the company he paid. This is because the company provided the service, which was to purchase the cryptocurrency. The subsequent transfer to the scammer would not give rise to a valid chargeback.

So, I'm satisfied Lloyds was unable to recover the payments Mr C made.

Should Lloyds have prevented the payments Mr C made?

Mr C has accepted he authorised the payments he made from his Lloyds account, albeit on the scammer's instruction, so the starting point here is that Mr C 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 stepped in when Mr C was attempting to make the payments, and if it had, would it have been able to prevent the scam taking place.

While the payments Mr C made in relation to the scam were not individually of a significant value that I think would necessarily have triggered Lloyds' fraud prevention systems, Lloyds has confirmed the payment Mr C made of £1,000 was stopped by its fraud prevention systems but released without contacting Mr C. Lloyds said at the time this was reasonable as Mr C had previously made other payments to Moonpay.

I am pleased to say that in response to our Investigator's view Lloyds has accepted it should have stepped in at this time and spoken to Mr C about the payment.

If Lloyds had stepped in, I have no reason to believe Mr C wouldn't have given accurate answers to the questions it would have asked him and uncovered that a scam was taking place. Once the scam had been uncovered, I think it's unlikely Mr C would have made any further payments into the scam. Lloyds is therefore responsible for Mr C's loss from the payment of £1,000 onwards.

Did Mr C contribute to his loss?

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions (see s.1C(d) of our enabling statute, the Financial Services and Markets Act 2000).

In the circumstances, I do think it would be fair to reduce compensation on the basis that Mr C should share blame for what happened. I say this because Mr C started to make payments on the instruction of someone he had met via a social media platform, without carrying out any meaningful research on the person or company he was investing with. Mr C was also receiving too good to be true returns on his investment which should have raised red flags, prompting him to carry out research before making even more payments.

Had Mr C carried out research, as he did at the end of the scam, earlier he would likely have found he was being scammed and stopped making payments.

I think it would be fair to reduce compensation by 50% on the basis that Mr C should share the blame for what happened.

I appreciate Lloyds initially quoted an incorrect monetary amount Mr C would receive but for the reasons set out above, I still think a 50% reduction in the compensation Mr C will receive is fair.

Putting things right

Lloyds Bank PLC should refund all the payments Mr C made into the scam from the payment of £1,000 on 8 July 2022 less 50%.

Lloyds Bank PLC should add 8% simple interest per year to the amount it pays Mr C from the time Mr C made the payments to the time Lloyds Bank PLC provides the refund (less any lawfully deductible tax).

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 25 August 2023.

Terry Woodham
Ombudsman