

## The complaint

Mr C complains that Lloyds Bank PLC (Lloyds) wouldn't refund money he lost in a scam.

## What happened

*What Mr C says:*

Mr C contacted what he thought was a legitimate bitcoin company after he saw an advertisement. He left his contact details and the company called him. He discussed the investment and he sent a copy of his passport and front and back of his debit card for ID purposes.

Mr C paid £251.10 by debit card as a 'member's fee'. He then sent a payment for £2,500. He was then told by the caller that the investment had grown to £17,476.28 and to release the funds, he needed to pay an 'exchange fee'. He made another payment of £1,816.44. A few days later he was told the investment had grown to £19,030.18 and he needed to pay 'insurance' which he would get back. He made a further payment of £3,119.85. The payments were:

Date	Transaction	Amount – GBP equivalent (paid in Euros)
29 March 2022	Debit card payment	£251.10
29 March 2022	International payment - Portugal	£2,500
29 March 2022	Fee - International payment	£7.50
4 April 2022	International payment - Portugal	£1,816.44
5 April 2022	International payment - Portugal	£3,119.85
<b>Total claim</b>		<b>£7,694.89</b>

Mr C became suspicious when he was asked for a further £5,671 as a 'commission payment' – which was apparently needed to be paid to release the investment. He was then hassled further for more money – which he didn't pay. He realised that he was a victim of a scam.

Mr C says he's lost all his savings and has put his house on the market to downsize, repay his mortgage and rebuild his savings. He says he's had to get counselling for depression because of what happened.

Mr C contacted Lloyds on 8 April 2022 to report the scam and asked Lloyds for help to get his money back.

*What Lloyds say:*

In September 2022, Lloyd said the Contingent Reimbursement Model (CRM Code) didn't apply in this case as the payments were overseas payments – which aren't covered by the CRM code.

They said the onus is on customers to protect themselves – to research the company they were dealing with; for example, by confirming with the Financial Conduct Authority (FCA) that the investment company is genuine and regulated in the UK. Mr C entered a one-time password to confirm the payments. The international payments were not significantly higher than other payments he had made – so Lloyds said they had no reason to stop them.

Lloyds said they would contact the bank in Portugal to see if they could get any money back on a 'best endeavours' basis. They raised a dispute for the debit card payment of £251.10.

Lloyds apologised that Mr C's case hadn't been handled quickly enough and for that, paid compensation of £75.

*Our investigation so far:*

Mr C brought his complaint to us. Our investigator didn't uphold it. He said the payments weren't unusual enough for Lloyds to have intervened. The highest amount paid in the scam was £3,119.85 and this was in line with other activity on Mr C's account. But Lloyds hadn't dealt with his scam claim quickly enough – as he contacted Lloyds on 8 April 2022 and it wasn't dealt with until 24 June 2022. But he said it was unlikely to have made a difference to the recovery of the money – as Mr C only got in touch with Lloyds a week after the first payment.

Mr C didn't agree. He said there were other similar cases where our service had upheld the complaint. He said the transactions were unusual for him and Lloyds should've intervened. Had they done so, it would've made a difference. He was completely taken in by the scammers and said Lloyds should refund the money paid. He asked that an ombudsman look at his complaint - and so it has come to me to do that.

*I issued a provisional decision which said:*

I'm sorry to hear that Mr C has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. He made the debit card payment and confirmed the international payments with a one-time password. So although Mr C didn't intend for the money to go to the scammer, he is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case. But that is not the end of the story. Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Lloyds should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) doesn't apply in this case. That is because it applies to payments made to a UK beneficiary – and in this case, the payments were made to an overseas account.

I need to decide whether Lloyds acted fairly and reasonably in its dealings with Mr C when he made the payment, or whether it should have done more than they did. I have considered the position carefully.

I firstly considered whether it was reasonable to have expected Lloyds to step in and stop and question the payments. I looked at Mr C's account.

In the 12 months before the payments in question – Mr C made regular debit card payments from his account. These were for small amounts – usually less than £20 and appear to be for normal living expenses.

But I could also see a number of high value payments/debits which were similar in amounts to the payments to the scammer:

- 16 August 2021: £2,400 – faster payment
- 27 September 2021: £4,785 – debit card payment
- 4 October 2021: £2,400 – faster payment
- 4 October 2021: £1,800 – debit card payment
- 20 December 2021: £1,430 – debit card payment

Against that, I accept that the three payments, in euros, and to an international beneficiary and for the amounts involved were unusual. And – Mr C was setting up the payee as a new beneficiary in online banking for the first time.

But equally, I must decide whether we would've expected Lloyds to intervene – given that the amounts paid out to the scammer weren't unusual payments in terms of value. I must also consider that there is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. If all payments such as the ones Mr C made were blocked while further enquiries were made, many genuine payments would be stopped which would cause significant disruption and delay.

And in this case, on balance, I don't think it's reasonable to have expected Lloyds to intervene – because the value of the payments made by Mr C to the scammer weren't sufficiently unusual when completed to his normal account activity, as I've set out.

*Recovery:*

When a customer reports a scam of this type, we expect firms to contact the recipient bank promptly to try to get money returned. In this case, we saw that Lloyds didn't contact the overseas bank until 24 June 2022. So – we asked Lloyds more questions about why this didn't take place until then – as Mr C contacted Lloyds on 8 April 2022.

We asked for and listened to the calls between Mr C and Lloyds. On the first call – on 8 April 2022, Lloyds call handler said Mr C needed to speak to Lloyds' payments department and he should call them the next day – but unfortunately, when he called the next day, the payments department was closed (it was a Saturday). Given that Mr C needed to speak to Lloyds' fraud department (and on the call he was told they were available 24/7) – I'm not clear why he was directed to the payments department. This was an error by Lloyds.

When Mr C got through to the fraud department – on 11 April 2022 – he was told Lloyds couldn't do anything and he should call Action Fraud. The call handler said Action Fraud was a third-party company and was "part of us" - which was an error, as it isn't. I don't think that was a reasonable thing for Lloyds to do – Lloyds didn't take ownership of what had happened and didn't try to sort matters out for Mr C. They didn't log the call as a fraud, nor did they try to contact the recipient bank at that stage.

But - I think it's very unlikely that even if Lloyds had done so, that any funds could've been returned then – as it was six days after the payments were made. I think it's likely the funds would've been removed by the scammer by that time. But – in any case, Lloyds should've gone ahead and contacted the recipient bank then, but didn't.

After first contacting the recipient bank on 24 June 2022, Lloyds contacted them again on 12 July 2022, at which time the bank said there were no funds left to return. Unfortunately, where an overseas bank is involved in such a scam, they are under no obligation to respond to requests for return of funds – and therefore it was unlikely Lloyds would've been able to get a return of the money in any case.

Lloyds attempted to get the amount of the debit card payment refunded by the card scheme which issued the card. We asked Lloyds more about this and they said the claim failed. I haven't looked at this further as this was an authorised payment by Mr C, and a chargeback had no reasonable prospects of success.

#### *Service:*

Mr C says he was told by Lloyds that he would get his money back. We asked Lloyds more about this and listened to the calls – and I didn't hear a commitment from Lloyds to refund the money. There were some references by call handlers that they were going to "get it sorted", but I don't think that was a commitment to refund the money.

It took from when Mr C contacted Lloyds on 8 April 2022 until July 2022 to deal with the scam claim. We asked Lloyds more about this and when Mr C called Lloyds on 8 April 2022, he was asked to call again the next day. But on that day, the department he was referred to was the payments department and was closed – and he then spoke to Lloyds about the scam on 11 April 2022. But it wasn't logged as a scam, and not followed up by Lloyds at that time – as it should've been. It was only actioned as such when Mr C made a complaint in June 2022.

Lloyds paid compensation of £75 for this delay. While (as I said earlier) it was unlikely this had any impact on Mr C's losses, I'm not persuaded that this was enough – as during that time, Lloyds could've been pursuing the recipient bank for a refund. And they'd referred Mr C to Action Fraud – I don't think that was sufficient. On the calls with Lloyds, Mr C said he

hadn't been able to get through to Action Fraud. So – Mr C was left for the three-month period without any action taking place or having any knowledge as to whether his bank was dealing with his case.

Therefore, because Lloyds should've approached the recipient bank earlier and because they didn't log and action the scam case when Mr C reported it – I think it's reasonable that Lloyds pay total compensation of £200 – to include the £75 already paid.

I know Mr C will be disappointed with this provisional decision – as I'm saying that the amounts paid to the scammer don't need to be refunded. He's argued that our service has made decisions to refund money in similar cases. But – our core principle is to review complaints based on the individual circumstances of each one. And having reviewed his complaint, I'm confident that this is the right outcome in this case.

#### Responses to the provisional decision:

Lloyds agreed, but Mr C didn't. He set out again that when he called Lloyds on 8 April 2022, there were a series of errors which meant the scam wasn't dealt with as quickly as it should've been. He set out the errors by Lloyds (as I've described in the provisional decision) which meant they didn't approach the recipient bank until June 2022. – which was when he complained. He said that 14 weeks of inaction by Lloyds was unacceptable, and the compensation of £200 wasn't enough for that.

I now need to consider the points Mr C had made and come to a final decision.

#### **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.

I've considered Mr C's response to the provisional decision. I revisited the complaint, calls and sequence of events. There are two issues here:

- If Lloyds had contacted the recipient bank on 8 April 2022 or 11 April 2022 – could that have led to a return of the funds?
- Is the compensation of £200 sufficient?

On the first point about recovery, I considered that in the provisional decision. Our experience of such scams is that funds are removed by the scammers within hours (sometimes minutes) of being credited to the receiving account. In Mr C's case, if Lloyds had acted on the earliest date (8 April 2022), then between three days and ten days had elapsed (depending on which payment). Added to which, Lloyds would've been dealing with an overseas bank – and such banks don't have the same obligation to return funds compared to a UK bank. And there are practical implications also. So – I'm persuaded there was very little chance of getting any money back.

On Mr C's second point about service, I agree Lloyds should've done much better, and covered that in the provisional decision. Our criteria for awards is set out at:

<https://www.financial-ombudsman.org.uk/consumers/expect/compensation-for-distress-or-inconvenience>

I reviewed what happened again and am confident that the award of £200 is fair for what happened. Lloyds did make a mistake at the outset, and Mr C suffered some worry and

stress – as he didn't know what was going on after he called. For a higher award, I would have expected to see evidence of ongoing and acute concerns. For example – that might have been frequent calls / emails / messages from Mr C to Lloyds chasing matters up. But I didn't see that. So – while Mr C will be disappointed, my decision is that it is reasonable that Lloyds compensation of £200.

### **My final decision**

I uphold this complaint. Lloyds Bank PLC must:

- Pay compensation of £125 for distress and inconvenience. This is in addition to the £75 already paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 8 September 2023.

Martin Lord  
**Ombudsman**