

The complaint

Miss S and Mr W complain that Lloyds Bank PLC (Lloyds) is refusing to refund them the amount they lost as the result of Mr W falling victim to a scam.

Miss S and Mr W are being represented by a third party. To keep things simple, I will refer to Mr W 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 W was introduced to what appeared to be a good investment opportunity with Futurestrade.io (X) by a friend at his work and he was added to Facebook and WhatsApp groups for investors. Happy with what he saw on the groups Mr W visited X's website which looked professional and legitimate.

Mr W signed up via the website and was then directed to a trading platform where he was asked to choose a package depending on the amount he wanted to invest.

Mr W started to invest via Binance where he had to exchange currency before sending it on to X. Mr W's investment seemed to be going well and he was offered further opportunities through the platform which he took advantage of.

One of these investments included a return after 15 days and a countdown timer was presented to Mr W. Mr W has told us that when this counter got down to 5 days it reset which caused him concern. But his confidence was reinforced when he was able to make a withdrawal from his Binance account.

X then stated during a live video that he had to shut down the site, but refunds would be made. The Facebook group were claiming refunds were taking place, but Mr W never received a refund. The Facebook page and WhatsApp groups were then taken down, and it was clear Mr W had fallen victim to a scam.

Mr W made the following payments in relation to the scam via his debit card:

Date	Payee	Amount
3 January 2022	Binance	£1,000
5 January 2022	Binance	£3,500
7 January 2022	Binance	£5,092
10 January 2022	Binance	£2,550
10 January 2022	Binance	£6,500
14 January 2022	Binance	£15,050
14 January 2022	Binance	£5,000
23 January 2022	Binance	£20
30 January 2022	Binance	£100
30 January 2022	Binance	£100

2 February 2022	Binance	£30
2 February 2022	Binance	£1,230

Our Investigator considered this complaint and thought it should be upheld. Lloyds 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 W has fallen victim to a cruel scam. The evidence provided by both Mr W and Lloyds sets out what happened. What is in dispute is whether Lloyds should refund the money Miss S and Mr W lost due to the scam.

Recovering the payments Mr W made

Mr W 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 W was dealing with X, which was the business that instigated the scam. But Mr W didn't make the debit card payments to X directly, he paid a separate currency exchange (Binance). This is important because Lloyds would only have been able to process chargeback claims against the merchant he paid (Binance), not another party (such as X).

The service provided by Binance would have been to convert or facilitate conversion of Mr W's payments. Therefore, Binance provided the service that was requested. The fact that the currency was later transferred elsewhere – to the scammer – doesn't give rise to a valid chargeback claim against the merchants Mr W paid.

So, the chargeback option was not available for the payments Mr W made.

Should Lloyds have reasonably prevented the payments Mr W made?

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

The first two payments Mr W made into the scam were for relatively low values, and the payments were being made to a genuine business on separate days. So, I don't think it was

unreasonable that these payments didn't trigger Lloyds's fraud prevention systems prompting it to step in.

Lloyds has said Mr W would have had to confirm that it was him making the payment via his banking app. But the third payment Mr W made into the scam was for more than £5,000, so considering the size of this payment I think Lloyds should have had concerns and it should have stepped into question Mr W about what the payment was in relation to.

I've not seen anything to make me think Mr W would have given dishonest answers if he was questioned by Lloyds. So, I think it's likely Mr W would have explained that X was using WhatsApp and Facebook to communicate, and that he had to make payments to Binance so funds could be sent to X. As these are common traits used by scammers, I think it's most likely Lloyds would have uncovered the scam and prevented any further payments from being made. Lloyds is therefore responsible for Miss S and Mr W's loss from the third payment Mr W made into the scam.

Did Mr W 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 don't think it would be fair to say Mr W contributed to the loss. I say this because Mr W had little experience in this type of investment and was lulled into a false sense of security by a business that went to great lengths to appear to be legitimate. There was also little information about X available at the time and no bad reviews.

Putting things right

I require Lloyds Bank PLC to:

- Refund all the payments Mr W made into the scam after the first two payments made on the 3 and 5 January 2022, less the payments he received from the scam (£5,726.16)
- Lloyds should also add 8% simple interest to the amount it pays Miss S and Mr W from the time the payments were made to the time they are refunded (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 Miss S and Mr W to accept or reject my decision before 16 February 2024.

Terry Woodham
Ombudsman