

The complaint

Mrs C and Mr C are unhappy that Lloyds Bank Plc won't refund money they've lost as a result of a scam.

What happened

Mr and Mrs C are represented in this complaint by a solicitor, for simplicity I will refer to Mr and Mrs C throughout this decision, even when referencing what their representatives have said on their behalf.

Mr C needed a van for his business, and Mrs C says she saw an advert for the kind of van he wanted on a well-known online marketplace. She contacted the seller, asking to view the van, but the seller said that due to the Covid pandemic he would instead arrange for the van to be delivered to Mr and Mrs C. Mrs C had been sent a scan of the seller's passport to confirm his identity and carried out her own check on the van with a third-party website, which reassured her that everything was legitimate. The van was being sold for £6,200, and Mrs C says the seller told her he wanted a quick sale due to the pandemic and the cost-of-living crisis.

It was agreed that Mrs C would pay the seller via PayPal and the van would be delivered to her. She was told that she could check the van on delivery and return it to receive a full refund if she wasn't happy with it. The seller sent her a link to what appeared to be PayPal's website, and she was directed to make a faster payment to an overseas bank account. Mrs C paid the £6,200 as agreed, from her and Mr C's joint Lloyds account.

When Mrs C was then unable to make further contact with the seller, she got in touch with the shipping company, at this point she realised she had been the victim of a scam. It appears that Mrs C then went to her local branch to tell them what had happened, and that they called the receiving bank to see if they could retrieve the funds, but no funds remained.

When Mrs C formally reported the scam to Lloyds, it declined to reimburse her. It explained that as the payment was an international payment, it wasn't covered by the Lending Standards Board's Contingent Reimbursement Model ('CRM Code') and so Lloyds was under no obligation to refund the payment under that code. It also explained that it did not feel there had been anything suspicious about the payment which should have flagged to Lloyds that Mrs C might be at risk of a scam, and that it did not feel Mrs C had done enough to protect herself from the scam.

Mrs C wasn't happy with Lloyds' position. She said it should have noticed that the transaction was unusual and made some basic enquiries about it before processing it.

One of our Investigators looked into what had happened and, they ultimately felt that Lloyds could have done more to protect Mr and Mrs C from this fraud. They felt that, in the context of how Mr and Mrs C used their account – the payment was unusual. The Investigator felt that if Lloyds had asked Mrs C some questions about what was happening then it likely would have been able to uncover the scam, and therefore prevent Mr and Mrs C's loss. So

the investigator recommended that Lloyds reimburse Mr and Mrs C for the payment, plus 8% interest.

Mr and Mrs C accepted the Investigator's findings, but Lloyds did not. They maintained that there were numerous red flags that should have indicated to Mrs C that all was not as it seemed. So Lloyds offered to reimburse Mr and Mrs C for 50% of the payment, as they felt Mrs C should share some responsibility for the loss.

Mr and Mrs C did not accept this offer, and the Investigator remained of the view that Lloyds should refund the full payment, with no deduction made for contributory negligence.

I issued a provisional decision on this complaint on 11 October 2023, explaining why I felt that Mrs and Mr C should share some responsibility for the loss.

Mrs and Mr C, and Lloyds, have confirmed that they accept my provisional 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.

In my provisional decision I explained the following:

"It's not disputed that Mrs C authorised the payment that is in dispute here. So as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means she is responsible for them. That remains the case even though Mrs C was the unfortunate victim of a scam.

Because of this, Mr and Mrs C are not automatically entitled to a refund. But the regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams.

I've looked at Mr and Mrs C's account activity, and this payment was out of character in the context of how they usually used their account. In general their payments were relatively small debit card payments and direct debits or transfers to their own accounts, there were occasional faster payments made but for significantly lower amounts than the £6,200 payment in dispute here. The £6,200 payment was also to a new payee, and was to an overseas account.

With all of this I mind, I think the payment should have been flagged as potentially suspicious, and Lloyds should have contacted Mrs C to ask some additional questions before allowing it to go through.

And, had it done so, I think it would have quite quickly come to light that this was a scam. Lloyds ought to have had a good enough understanding of how vehicle scams work – including that fraudsters often purport to sell vehicles which don't exist or don't belong to them on online marketplaces, that they usually send enough information about a vehicle to reassure a customer without allowing them to inspect it in person, that they regularly use fake PayPal communications to get the buyer to make a payment to an account outside PayPal, and that they more often than not offer a money-back guarantee if a buyer is unhappy with a vehicle upon delivery – to have been able to identify the risk of harm from fraud if it had asked Mrs C some probing questions.

I appreciate that Lloyds needs to strike a balance in the extent to which it intervenes in payments, against the risk of unduly inconveniencing or delaying legitimate payment requests and I wouldn't have expected it to interrogate Mrs C. I also acknowledge that the main perpetrator here is the fraudster. But overall, I think appropriate questions should reasonably have been asked in this case, and, if they had been, I think the scam would've been prevented and Mr and Mrs C wouldn't have suffered a loss.

However, having thought carefully about what happened here, I think Mr and Mrs C should share some responsibility for the loss. I think there were enough red flags here to suggest to Mrs C that this purchase potentially wasn't legitimate. I say this for several reasons.

Firstly, the price Mrs C had agreed to pay for the van was so low that it could really be considered as too good to be true – approximately half the market value of the van she thought she was purchasing. And the amount she agreed to pay would also have had to cover delivery of the van. Mrs C had also carried out a check on the van with a third party before agreeing to the purchase which had shown an estimate of its value. Mrs C has said the seller told her he was looking for a quick sale due to the pandemic and the cost-of-living crisis. But given that she has also said he was selling several vehicles I think this explanation should have given her pause for thought. It doesn't entirely make sense that someone who was apparently selling vehicles on a larger scale would be willing to take such a large hit on the selling price if all was above board with the vehicle.

Mrs C has also said she was an experienced PayPal user, so I think being directed to make a payment outside PayPal – and to an international account – should have caused her to question what she was being asked to do.

Mrs C has also said she felt pressured to make the payment by the seller, and I think that also should have caused her concern. She was buying a van, online, this was not a high-pressure situation, and I think the seller being pushy and pressurising her should have made her think twice about his motives.

With all this in mind, and considering that Mrs C hadn't seen the vehicle in person before agreeing to buy it, I think it's fair and reasonable for Mr and Mrs C to bear responsibility for 50% of the loss here. I think there was enough going on to have meant that Mrs C should have reconsidered making such a large payment to someone whose identity she could not be sure of – she had seen a passport scan but hadn't verified that the person she was dealing with was the person in that passport photo.

Lastly, I'm satisfied that Lloyds could not have done more to recover the funds. Once it had been told of the fraud it contacted the recipient bank, it's just unfortunate that the funds had apparently already been moved on.

So, in summary, I consider that Lloyds could have done more to prevent this fraud, but find that Mr and Mrs C should also bear some responsibility for the financial loss here. I therefore consider that Lloyds should refund 50% of the payment made."

As Mr and Mrs C and Lloyds have accepted my provisional decision, and neither party has made any further comments, I see no reason to depart from the findings set out above. So, I remain satisfied that it is fair and reasonable in the circumstance of this complaint for Lloyds to refund 50% of the payment made, plus 8% interest.

Putting things right

To resolve this complaint Lloyds should:

- Refund to Mr and Mrs C 50% of the payment – representing a refund of £3,100
- Pay 8% simple interest per year on this amount from 12 February 2021 to the date of settlement

My final decision

I uphold this complaint in part. Lloyds Bank PLC should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Mrs C to accept or reject my decision before 16 November 2023.

Sophie Mitchell
Ombudsman