

The complaint

Ms H complains that Lloyds Bank PLC (“Lloyds”) won’t refund over £14,000 she lost to an investment scam in December 2022.

The details of this complaint are well known to both parties, so I won’t repeat everything again here. Instead, I will focus on giving the reasons for my 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.

- It isn’t in dispute that Ms H authorised the disputed payments she made to her crypto wallets using her Lloyds debit card (where her funds were subsequently transferred on to the scammers from her crypto wallets). The payments were requested using her legitimate security credentials provided by Lloyds, and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.
- However, I’ve considered whether Lloyds should have done more to prevent Ms H from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character.
- It’s accepted that the payments Ms H made as part of the scam were considered unusual given that they did trigger the bank’s fraud prevention systems on several occasions and were automatically blocked pending further enquiry – including all the payments she initially attempted to the crypto platform ‘Elastum Simplex’. Accordingly, it’s just a question of whether the bank went far enough in all the circumstances with its interventions.
- Lloyds hasn’t been able to provide call recordings of the discussions it had with Ms H about the payments, but it has provided transcripts of those calls. And overall, having considered the conversations had between the two parties, I accept that Lloyds could have gone further in its questioning of Ms H. But even accepting this as the case, I’m not persuaded any such further questioning or scam warnings Lloyds could’ve given would have ultimately prevented her loss in any event.
- Ms H initially got in contact with Lloyds on 22 December 2022 after it blocked the payments she was attempting to make to Elastum Simplex. Ms H explained that she had sold her silver bullion and was now purchasing “digital/XLM silver” as she considered it a safer investment. I think this ought to have prompted further enquiries from Lloyds about how she came to find out about this investment. But I can see that it did ask her if she was happy it was a genuine company, to which she said it was, and that no one was pressuring her to make the payments or telling her to lie to the bank.
- When Ms H visited her local branch on 23 December 2022, I can see she was asked if

she had used Simplex before, to which she replied that she had, and that she was legitimately trying to buy silver. She later went back into branch the same day as her account was still blocked, where she then said that she hadn't used Simplex before. I think this change in story ought to have given Lloyds cause for concern, but I can see that it did prompt the bank to then ask what research she had carried out. Ms H said she had been recommended the investment and that she had done a lot of research herself. She said she had contacted others who were doing the same thing, and that she was happy it wasn't a scam. I can see that when reporting the scam, Ms H also said she'd researched the broker she was dealing with, which she found to be a good company and hadn't found anything negative.

- As a result, even though I think Lloyds should have warned Ms H in these circumstances, I'm not persuaded that any such a scam warning would've likely deterred her from making the payments. She said she had carried out a lot of research into the investment, as well as the broker, where she didn't find anything negative. So, any request from Lloyds for her to carry out further research to ensure it was legitimate would've been unlikely to reveal the scam. I also note that she gave misleading information to the bank, such as saying she had used Simplex before, which leads me to believe she was willing to mislead the bank in order to get the payments through.
- I note that Ms H was also determined to make the payments, even after being told that the transaction and merchant were both considered high risk. During one of the phone calls she had with Lloyds, she told the bank that she was considering moving all her money to an account with another bank, as she liked to invest and had tried buying Bitcoin before, which she wasn't able to do. She said it was her money and she should be able to do what she wanted with it. Ms H also said she was going to close her account after she was told to go into branch with her ID. Therefore, even if Lloyds had continued to block the payments or invoked the Banking Protocol in light of the scam risk, it seems she would've likely proceeded to make the payments another way, whether this was through her account with Lloyds or another bank. Therefore, while I accept Lloyds could've done more here, I'm not persuaded that any further action it could've taken would have likely prevented Ms H's loss to the scam.

I appreciate this will likely come as a disappointment to Ms H, and I'm sorry to hear she has been the victim of a cruel scam. However, I'm not persuaded that Lloyds can fairly or reasonably be held liable for her loss in these circumstances.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 18 March 2024.

Jack Ferris
Ombudsman