

## **The complaint**

Mr W complains that Lloyds Bank Plc refuses to refund money he lost to an investment scam.

## **What happened**

From December 2021 to February 2023, Mr W made debit card payments totalling £13,748.03 to a cryptocurrency exchange account I'll call 'B' (this was an account in his name). This was to fund an investment opportunity he discovered on social media. He was able to withdraw a total of £2,573.38 which he moved from his account with B back to his account with Lloyds.

Mr W realised he'd been scammed and contacted Lloyds for assistance with recovering his payments. On 8 June 2023, Lloyds processed a chargeback claim on Mr W's behalf. As B didn't reply, Mr W kept a refund of £1,215. But Mr W complained that this wasn't all the loss he'd suffered and he wanted his remaining £9,959.15 back.

Lloyds declined to refund Mr W but paid him £30 for not providing a better service when he came to it for help.

One of our Investigators looked into things. He didn't think Lloyds could have reasonably suspected that Mr W had fallen victim to a scam based on his payments to B. He didn't find any reasonable grounds for Lloyds to have stopped Mr W's payments to B.

Mr W didn't agree. He said in summary:

- The FCA's warning against B should've prompted Lloyds to consider his daily payments to them as highly unusual, akin to gambling.
- The preventive measure that Lloyds has now taken is too late.
- A chargeback claim would've been successful as evidenced by his successful claim.
- An enquiry should be made into why Lloyds allowed payments to B for over a year after the FCA's ban on B's activities in the UK.
- An Ombudsman at this service asked the bank to pay back funds in a case similar to his.

Mr W provided further evidence including; a list of his payments to B; another bank's decision to block payments to B; an Ombudsman's decision in a similar case; and Lloyds website announcing that another bank has blocked payments to B.

The complaint has therefore been passed to me for determination.

## **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.

Having done so, I don't uphold this complaint but before I explain why, I want to make it clear that I believe Mr W was the victim of a cruel scam and he is not to blame for falling victim to this, the scammers are. But being the victim of a scam, doesn't automatically entitle Mr W to a refund. My decision will just focus on the points I consider to remain in dispute.

Banks and other Payment Services Providers ("PSPs") have duties to protect customers against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering. But when simply executing authorised payments, they do not have to protect customers against the risk of bad bargains or give investment advice — and the FCA has confirmed that a fraud warning would not constitute unauthorised investment advice.

There is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction.

All of the payments were sent to an account in Mr W's name, the first payment was made on 24 December 2021 for £1,500. I don't think this payment was particularly unusual when considering amounts customers normally make on a day-to-day basis. Based on the payment alone, I don't think Lloyds had reasonable grounds to suspect that Mr W could be falling victim to a scam.

From 27 May 2022 to 24 June 2022, Mr W received credits totalling £2,491.87 from his account with B – which was substantially more than his initial payment.

From 5 August 2022 to 24 February 2023, Mr W made over 90 more payments from his Lloyds current account to his B account. None of the individual payments exceeded his initial payment of £1,500. And even though there were some days where multiple payments were made, the payments on those days were all of relatively low individual (and collective) value in comparison to his initial payment. I'll provide a table of payments from 1 October 2022 to 1 November 2022 by way of an example:

Date	Beneficiary	Amount
1 October 2022	B	£110
2 October 2022	B	£150
3 October 2022	B	£150
5 October 2022	B	£300
6 October 2022	B	£140
12 October 2022	B	£200
22 October 2022`	B	£200
27 October 2022	B	£500
28 October 2022	B	£240
31 October 2022	B	£100
1 November 2022	B	£300

I don't think I can say any of the above payments, or any of the payments that followed were sufficiently unusual or uncharacteristic when considering any customer's normal day to day banking activities. In my judgement, B was not a new payee to Mr W and after the pattern of payments that followed his credits (above), I think Lloyds would have reasonably concluded that the payments that followed were in keeping with Mr W's normal activities.

There's no evidence to support that Lloyds suspected that Mr W was falling victim to a scam or that it intervened in any of his payments and for the reasons I've explained, I don't think there were reasonable grounds to do so.

Even if I were to accept Mr W's argument that his payments were akin to gambling, Lloyds doesn't block gambling transactions from current accounts. I don't think Lloyds should have reasonably concluded that Mr W was incapable of managing his money or making financial decisions for himself – even if those decisions were high risk.

#### *Should Lloyds have automatically blocked payments to B?*

I've considered Mr W's concerns that Lloyds ought to have automatically blocked payments to B in light of the FCA's findings. However, I don't agree. The FCA issued a consumer warning about 'B Limited' in June 2021. B Limited is a different legal entity to B. The FCA advised that B Limited was unable to undertake any regulated activities within the UK. But the buying and selling of crypto with B (the activity Mr W was involved in) was an unregulated activity and therefore not banned. And customers could at the material time legitimately purchase crypto assets from B. However, I do recognise Mr W's points that other financial firms banned payments to B in light of the FCA's findings. However, Lloyds didn't and I can't say it should have taken this decision as the regulator didn't indicate that firms were required to ban payments to B.

I therefore don't think Lloyds missed an opportunity to identify that Mr W had fallen victim to a scam and therefore I don't think it is responsible for his losses.

#### *Chargeback*

Chargeback is a voluntary scheme run by Visa (in this case) whereby it will ultimately arbitrate on a dispute between the merchant and customer if it cannot be resolved between them after two 'presentments'. Such arbitration is subject to the rules of the scheme — so there are limited grounds on which a chargeback can succeed. Our role in such cases is not to second-guess Visa's arbitration decision or scheme rules, but to determine whether the regulated card issuer (i.e. Lloyds) acted fairly and reasonably when presenting (or choosing not to present) a chargeback on behalf of its cardholder.

In my judgement, I don't think Lloyds had any valid grounds to process chargeback claims for Mr W. He funded his account with B, purchased crypto and sent this onto the scammer. B therefore provided the services to Mr W as described. If Mr W had any money available in his B account, this would have been accessible to him. So I don't think Lloyds had any reasonable grounds to have attempted chargeback claims. Nevertheless, I can see it did raise claims for some transactions that it said were within Visa's 120 day time limit. These claims succeeded on the basis that B didn't defend the claims. I can't say Lloyds acted unreasonably by not raising chargeback claims in respect of Mr W's other payments. But in my judgement, I don't think Lloyds had valid grounds to raise any chargeback claims.

#### *Ancillary points*

I recognise Mr W has provided a final decision from this service that he feels is similar to his complaint. I don't agree that the circumstances are similar to his. In the final decision he's provided a copy of, the Ombudsman considered two payments of £10,000 each to a crypto exchange were unusually large when considering all the circumstances of that complaint. I've already concluded that I don't think Mr W's payments were unusual and I don't think Lloyds ought to have reasonably suspected that he could be falling victim to a scam.

Finally, I note Mr W provided an article where B allegedly admits to financial crimes. The article was published in November 2023. This doesn't change my view that Lloyds didn't and were not obligated to ban payments to B. And as I've already commented on, B didn't scam Mr W, the individual he sent his crypto to from his B account did.

**My final decision**

My final decision is, despite my natural sympathies for Mr W's loss, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 January 2024.

Dolores Njemanze  
**Ombudsman**