

## **The complaint**

Ms R complains that Lloyds Bank Plc ('Lloyds') won't refund the money she says was lost as the result of a scam.

## **What happened**

In early 2021, Ms R was presented with an investment opportunity by someone I'll refer to as P. Ms R had previously made two investments with P's company (who I'll refer to as S), which had been fully repaid including the promised returns.

P told Ms R that she had a new property developer (H) who needed funds. P said they'd worked with H before and trusted him. The loan note that Ms R signed was between her and S and said Ms R was loaning S £50,000 at an agreed fixed return of £1,000 for a one month term. P asked Ms R to pay the money directly to an account in H's name.

Ms R made two payments of £25,000 from her Lloyds account on 22 February 2021, to H.

After two months, Ms R hadn't received her money back. P told Ms R that the developers weren't reliable and would be selling assets in order to repay the funds, and Ms R should wait until January 2022.

Ms R didn't receive her money back in January 2022. So, she raised a fraud claim with Lloyds in June 2023, through a professional representative.

Lloyds investigated Ms R's fraud claim but declined to refund her saying she had a civil dispute with S. Lloyds said the payments weren't out of character, so they hadn't intervened when the payments were made.

Ms R wasn't happy with Lloyds' response, so she brought a complaint to our service. An investigator looked into Ms R's complaint but didn't uphold it. The investigator wasn't satisfied that Ms R was the victim of an APP scam under the Contingent Reimbursement Model Code (CRM Code) and agreed that it was a civil dispute between Ms R and S.

Ms R disagreed with the investigator's opinion and raised the following points:

- H has used introducers like P before, absconding with the funds.
- There is overwhelming evidence that H is a fraudster.
- A friend of H's is taking criminal action against H as he was defrauded himself.
- In 2020, H took over £500k from victims and there is a judgement against H and one of his companies as the defendant.

Ms R's representative provided a substantial response which included links to online articles, documents, reference to other cases with our service and evidence they say points to H being a fraudster.

Ms R asked for an ombudsman to review the case.

## 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 deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in light of the available evidence.

In broad terms, the starting position at law is that a bank such as Lloyds are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

### Is Ms R entitled to a refund under the CRM Code?

Lloyds have signed up to the CRM Code, which requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams, in all but a limited number of circumstances.

But, the CRM Code does not apply to private civil disputes, for example where a customer has paid a legitimate supplier for goods, services or digital content but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier.

The CRM Code defines what is considered an APP scam as, *"where the customer transferred funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent"*.

In order to decide whether the circumstances under which Ms R made her payments meets the definition of an APP scam, I need to consider:

- The purpose of the payments and whether Ms R thought this purpose was legitimate.
- The purpose P had in mind at the time of the payments and whether this was broadly in line with what Ms R understood the purpose to be.
- And, if I decide there was a significant difference in these purposes, whether I'm satisfied that was as a result of dishonest deception.

Ms R was making a payment to H as part of an investment with S. I haven't seen anything that suggests Ms R didn't think this was a legitimate purpose.

So, I've gone on to consider what purpose S had in mind and whether it was in line with what Ms R thought.

In reaching an answer on what purpose S had in mind, the key information to this case is:

- Ms R signed a loan note and contract with S. I appreciate that she paid the money to H, but Ms R's arrangement was with S, not H, and it's S that owes Ms R the money.
- Ms R had previously invested with S (in 2018 and 2019) and received both her capital and interest on those investments. Also, S has been a UK incorporated company since January 2014 and is still active. This shows that S has been trading legitimately for a significant period of time.
- In 2020 S lost their FCA registration and couldn't carry out regulated business. While this is a misrepresentation as Ms R wasn't told, this it doesn't show that S took Ms R's money with a different purpose in mind.
- S told Ms R that the funds she was lending were going to a property developer – H. Which is where the funds went.
- Ms R has provided substantial information which she says shows that H is a fraudster and took the money knowing he wouldn't return it. However, Ms R's contract was with S, not H. There is no evidence that links S to H, or supports that S took the funds intending to defraud Ms R.

Based on this, I'm not satisfied that Ms R's funds weren't used for their intended purpose by S, or that S took them with a different purpose in mind. So, I'm not satisfied that Ms R's payments meet the definition of an APP scam and therefore aren't covered by the CRM Code.

Is there any other reason that I could hold Lloyds liable for Ms R's loss?

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 preventing fraud and scams.

Also, I'd expect Lloyds to have 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). And where a potential risk of financial harm is identified, to have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment.

But, even if I was satisfied that Lloyds should've intervened when Ms R made these payments, I'm not persuaded that Ms R's loss would've been prevented. I say this because Ms R had previously made two successful investments with S and developed a level of trust with S. I'm not satisfied that questions Lloyds would've asked about the payments, would've identified any concerns, or meant Lloyds acted unreasonably in following Ms R's payment instruction.

I appreciate that S has lost their FCA registration but as they had it when Ms R had previously invested, I think it's unlikely that this information would've come to light as part of Lloyds' discussion with Ms R.

I'm really sorry to disappoint Ms R as she has lost a significant amount of money, but I'm not satisfied that I can fairly hold Lloyds liable or ask them to refund her.

### **My final decision**

My final decision is that I don't uphold this complaint against Lloyds Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 23 April 2025.

Lisa Lowe  
**Ombudsman**