

## The complaint

Mr P complains that Lloyds Bank PLC (Lloyds) is refusing to refund him the amount he lost as the result of a scam.

Mr P has previously been represented by a third party. To keep things simple, I will refer to Mr P 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 P was interested in investing and after carrying out an online search came across a company called Trust Financial Planning (X). The website looked genuine and professional, so Mr P called the number displayed on the page.

X was able to answer all the questions Mr P had which gave him further confidence he was dealing with a genuine company. Mr P was required to open an account with the cryptocurrency exchange Binance as it was explained he would be trading in currencies and cryptocurrencies. As part of this process Mr P had to provide proof of his identification, which again made the investment appear legitimate.

After building a rapport with Mr P, X gave Mr P a £100,000 trading credit which soon grew to £180,000. X explained that if Mr P didn't return the £100,000 the trading platform would take the balance and Mr P would be left with nothing.

Mr P was in contact with X on a regular basis and despite making payments as requested by X, X continued to give further reasons for Mr P to make further and further payments.

X eventually explained that Mr P needed documentation from a solicitor that would cost over £10,000. At this stage Mr P realised he had fallen victim to a scam.

Mr P made the following payments in relation to the scam from his Lloyds account:

Date	Payee	Payment Method	Amount
10 June 2022	Scopeweb.online	Debit Card	£85.53
3 September 2022	Binance	Debit Card	£1,000.00
5 September 2022	Binance	Transfer	Attempted £1,600.00
27 September 2022	Binance	Transfer	£15,000.00
10 October 2022	Binance	Transfer	£20,000.00
10 November 2022	Binance	Transfer	£30,700.00
18 November 2022	Binance	Transfer	£17,150.00
30 November 2022	Binance	Transfer	£12,915.00
8 December 2022	Binance	Transfer	£1,221.00
9 January 2023	Binance	Transfer	£9,300.00

Our Investigator considered Mr P's complaint but didn't think it should be upheld. Mr P

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 P has fallen victim to a cruel scam. The evidence provided by both Mr P and Lloyds sets out what happened. What is in dispute is whether Lloyds should refund the money Mr P lost due to the scam.

#### *Recovering the payments Mr P made*

Mr P made payments into the scam via his debit card and the method of transfer. 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.

The first payment Mr P made in relation to the scam was made to Scopeweb. Unfortunately, Mr P made his complaint to Lloyds about this payment outside of the allowed time to raise a chargeback and therefore Lloyds has been unable to attempt a chargeback for the payment.

For the remaining payments Mr P was dealing with X, which was the business that instigated the scam. But Mr P didn't make the debit card payments to X directly, he paid a separate cryptocurrency 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 P's payments into cryptocurrency. Therefore, Binance provided the service that was requested; that being the purchase of the cryptocurrency.

The fact that the cryptocurrency was later transferred elsewhere – to the scammer – doesn't give rise to a valid chargeback claim against the merchants Mr P paid.

For the payments Mr P made by transfer Lloyds had limited options available to it to seek recovery. Lloyds could have asked the operator of the receiving account to return any funds that remained in the payee's account. But Mr P had made the transfers to his own Binance account so would remain in control of any funds if there were any remaining.

With the above in mind, I am satisfied Lloyds had no reasonable options available to it to recover the payments Mr P made in relation to the scam.

#### *Should Lloyds have reasonably prevented the payments Mr P made?*

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

The first two payments Mr P made in relation to the scam were for relatively low values so did not trigger Lloyd's fraud prevention systems and it didn't intervene.

The third payment Mr P attempted to make was for the value of £1,600 on 5 September 2022. When this payment was attempted Lloyds' fraud prevention systems were triggered and he was required to visit a branch where he was handed a scam warning leaflet. Mr P was also required to speak to Lloyds' fraud prevention department and a copy of this call has been provided to us.

During this call Mr P said he was making the payment as he wanted to keep his money in different accounts. Mr P also confirmed no one else had told him to make the payment.

It then came to light that Mr P had been asked to download AnyDesk to his device. Lloyds confirmed at this stage that Mr P was experiencing a scam. Lloyds told Mr P that no one should be asking him to download AnyDesk and if they had then it would be a scam. Lloyds advised Mr P at this point to remove AnyDesk from his device, reset his internet banking and perform a virus check.

Lloyds was very clear in this call that Mr P was experiencing a scam and he appears to have understood. But Mr P continued to make further payments.

On 27 September 2022 Mr P attended a branch to make a payment of £15,000. A call then took place between Mr P and the fraud operations department.

Lloyds explained to Mr P that he had previously attempted to make a payment in relation to a scam on 5 September 2022 and there were concerns about this payment. Mr P confirmed he had no screen sharing applications on his devices and was making the payment himself. He had not been in touch with any third party and was not being asked to make any payments. Mr P said he was making this payment himself and was prepared to lose the money several times and that he understood the risks.

Mr P confirmed several times he was not speaking to a third party, and no one had asked him to make any of the payments. Mr P also confirmed that he was not moving his cryptocurrency on from his crypto account.

On 10 October 2022 Mr P attended a branch to make the payment for £20,000. A call then took place between Mr P and Lloyds' verification department. Lloyds gave Mr P a general fraud and scam warning.

With the above in mind, I think it's clear Mr P gave dishonest answers to Lloyds when he made the payments which would have made it very difficult for Lloyds to uncover the scam that was taking place. And I don't think Mr P would have been any more honest with Lloyds had it intervened with payments he made later to the scam. Considering the information outlined above I don't think Lloyds missed an opportunity to prevent the scam and it is not responsible for Mr P's loss.

**My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 14 June 2024.

Terry Woodham  
**Ombudsman**