

The complaint

Ms M complains that Lloyds Bank PLC (Lloyds) is refusing to refund her the amount she lost as the result of a scam.

Ms M has previously been represented by a third party. To keep things simple, I will refer to Ms M 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, Ms M was interested in cryptocurrency investment and whilst browsing Instagram came across an advertisement for a new cryptocurrency investment software. Ms M clicked on the link which appeared to take her to a well-known news site and an article about new trading software. The article was presented with an endorsement from a well-known celebrity.

The information presented to Ms M looked professional and interested her, so she completed an online data capture form with her contact information.

Ms M was then contacted by a business called Comovest (X). X appeared very knowledgeable and was persuasive playing on Ms M's financial insecurity. Ms M agreed to make an initial payment to start trading with X which she paid using a credit card.

X called Ms M following the payment being made and setup a trading account with her, instantly building a trusting rapport. X promised Ms M good returns if she agreed to invest in natural gas which she agreed and made a payment as requested.

Ms M went on to make another payment as advised by X relating to other trades. But when she tried to make a withdrawal X asked her to make further payments in relation to withdrawal fees, and Ms M realised she had fallen victim to a scam.

Ms M made the following payments in relation to the scam:

Date	Payee	Payment Method	Amount
11 January 2024	Isi*big Ben Media	Debit Card	£1,023.48
3 February 2024	WD*Immigration En	Debit Card	£1,498.53

Our Investigator considered Ms M's complaint but didn't think it should be upheld.

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

Recovering the payments Ms M made

Ms M made payments into the scam via her debit card. When payments are made by card the only recovery option Lloyds has is to request a chargeback.

Lloyds are bound by the card scheme provider's chargeback rules. Whilst there is no 'right' to a chargeback, I generally consider it to be good practice that a chargeback be raised if there is a reasonable chance of it succeeding. But a chargeback can only be made within the scheme rules.

Under the scheme rules there is limited protection for payments going to investments. But in this case, the nature of Ms M's claim would be that X was operating a scam, and this isn't something the chargeback scheme provides protection against.

So, I am satisfied Lloyds didn't have any reasonable chance of recovering the payments Ms M made.

Should Lloyds have reasonably prevented the payments Ms M made?

It has been accepted that Ms M authorised the payments that were made from her account with Lloyds, albeit on X's instruction. So, the starting point here is that Ms M 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 stepped into question Ms M about the payments she was making. And if it had questioned Ms M, would it have been able to prevent the scam taking place.

When Ms M made the first payment on 11 January 2024 a call took place between Ms M and Lloyds and a recording of this call has been provided by Lloyds.

Ms M confirmed that she was making the payment in relation to an investment, she had previously used the company, trusted the company, had a business advisor and the account was in her name where she could check everything.

Lloyds explained that cryptocurrency is a high-risk investment that the bank doesn't cover and wouldn't be able to refund. Lloyd also said it's important to check there are no scams and that Ms M was happy with the payment.

Ms M was also told not to give any details of her accounts to anyone or to allow remote access to her devices, that there was a lot of scams around concerning cryptocurrency and that returns can never be guaranteed. She was advised to research the company and to make sure she was happy to make the payment before making it.

The payment Ms M was making at the time was relatively low in value, so I think the intervention carried out by Lloyds was inline with what I would have expected, and that relevant information and warnings about investment scams was given.

The second payment Ms M made in relation to the scam was again for a relatively low value.

Considering the size of the payment I am not surprised it didn't trigger Lloyds' fraud prevention systems and that an intervention call didn't take place.

Even when a scam has taken place, and an individual has been tricked out of their money, it doesn't necessarily follow that a business will need to refund the money that has been lost.

Overall, I am satisfied that Lloyds acted appropriately in response to the payments Ms M made and gave appropriate warnings at appropriate times. So, I don't think it would be fair to hold Lloyds responsible for Ms M's loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 19 April 2024.

Terry Woodham
Ombudsman