

## **The complaint**

Mrs B complains that Lloyds Bank PLC didn't do enough to protect her from the financial harm caused by an investment scam, or to help her recover the money once she'd reported the scam to it.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mrs B came across an advert on social media for an investment company I'll refer to as "D". She clicked on a link in the advert and was contacted by someone I'll refer to as "the scammer". The scammer said Mrs B would be able to make returns ranging from 20% – 85% by trading cryptocurrency, and that the more she could invest, the higher the potential returns.

Mrs B was shown how to open an account with cryptocurrency exchange companies I'll refer to as "B" and "C". The scammer asked her to first purchase cryptocurrency and then load it onto an online wallet. She researched D and could see it was on Companies House with a registered address in London. She checked online and couldn't see any negative reviews and was also satisfied the cryptocurrency exchanges were genuine.

On 27 June 2022, Mrs B paid £100 to C. And between 30 June 2022 and 11 August 2022, she made four payments to B totalling £18,500 from her Lloyds account. She eventually realised she'd been scammed when she lost contact with the scammer having sent a large amount from another account. She complained to Lloyds, but it refused to refund any of the money she'd lost. It said the payments were to accounts in Mrs B's name and so she was in control of the money. It also said it had declined four payments and during the calls, Mrs B had indicated she knew what she was doing.

Mrs B wasn't satisfied and so she complained to this service. Her representative explained she had never invested or purchased cryptocurrency before and didn't know about the importance of checking the Financial Conduct Authority ("FCA") register.

The representative said Mrs B's monthly income was £1,000 and she used her account for day to day spending and bills, so the payments were out of character. They said that when Lloyds did intervene, Mrs B told it where she was sending the money and why. She was only given generic information about scams when it should have explained in depth how scams function. And she continued to make payments to the scam because she wasn't given an effective warning or told about the importance of checking the FCA register.

The representative also argued that due to Mrs B's age, it would have been appropriate to invoke the banking protocol because if she'd attended the branch she would have been asked questions around now she discovered the investment opportunity, what was going to happen to the money once it was paid to B, whether anyone was trading for her and if so whether she'd met them in person. Had she been asked these questions Mrs B would have

explained that she'd found the opportunity on social media and Lloyds would have realised the investment had the hallmarks of a scam and stopped the payment.

Lloyds said it spoke to Mrs B on three separate occasions. During the calls she said she knew exactly what she was doing, the scammer was her friend and she had met her in person. She also said there was no third-party involved in the investment and she was 'embarrassed' by the interventions. It argued that there was nothing more it could have done to stop her making the payments as she was insistent that she was happy with what she was doing.

Our investigator didn't think the complaint should be upheld. She was satisfied Lloyds didn't need to intervene when Mrs B made the first payment to C because it was low value and it wasn't particularly unusual or suspicious when compared to Mrs B's normal account activity. She noted Lloyds intervened on 29 June 2022 and 30 June 2022 and that Mrs B still wanted to go ahead despite warnings and questioning from Lloyds.

She didn't think this was a case where Lloyds, contrary to Mrs B's instructions, should have refused to put the payments through because during the call on 29 June 2022, Mrs B had made it clear there were no third parties involved and that her friend hadn't sent her anything. She confirmed she was investing through B, she understood the risks of investing in cryptocurrency and that she had completed her research and knew what she was doing.

On 30 June 2022, Lloyds gave Mrs B a scam warning and advised her about the increase in cryptocurrency scams. She confirmed she knew who she was dealing with and had done all her research.

Our investigator commented that Mrs B didn't disclose the involvement of D or that she had found the investment on social media and because of this she was satisfied Lloyds' questions were reasonable. She didn't think a better intervention would have made any difference to the outcome because the available evidence showed she was under the spell of the scammer and that she was determined to make the payments. Because of this she didn't think Lloyds' actions caused Mrs B's loss.

Finally, she explained that we would only expect Lloyds to raise a chargeback if it was likely to be successful and as Mrs B paid a legitimate cryptocurrency exchange who had changed her payments into cryptocurrency before sending it to the wallet address she supplied it with, there was no reasonable prospect of success.

Mrs B has asked for her complaint to be reviewed by an Ombudsman. Her representative has argued that Lloyds missed several red flags including the fact Mrs B hadn't invested in cryptocurrency before, she was being helped by someone who wasn't in the country and she was 72 years old. They said Mrs B asked 'why, you don't think it's a good thing to do?' and the call handler said, 'no, it's just that there are a lot of cryptocurrency scams', which was more of a reassurance that the payment was fine.

They don't accept Mrs B was withholding important information and she didn't know it was important that she met the friend on social media. She was told that cryptocurrency can be high risk, which is an investment warning, not a fraud warning, and if Lloyds had provided a warning which was relevant to Mrs B's circumstances, she would have recognised the situation as high risk. They maintain it ought to have invoked the banking protocol.

### **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've reached the same conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Mrs B has been the victim of a cruel scam. I know she feels strongly about this complaint and this will come as a disappointment to her, so I'll explain why.

I've thought about whether Lloyds could have done more to recover Mrs B's payments when she reported the scam to it. Chargeback is a voluntary scheme run by Visa 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 (Mrs B).

Mrs B's own testimony supports that she used cryptocurrency exchanges to facilitate the transfers to B. It's only possible to make a chargeback claim to the merchant that received the disputed payments. It's most likely that the cryptocurrency exchanges would have been able to evidence they'd done what was asked of them. That is, in exchange for Mrs B's payments, they converted and sent an amount of cryptocurrency to the wallet address provided. So, any chargeback was destined fail, therefore I'm satisfied that Lloyd's decision not to raise a chargeback request against either of the cryptocurrency exchange companies was fair.

I'm also satisfied Mrs B 'authorised' the payments for the purposes of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although she didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of her bank account, Mrs B is presumed liable for the loss in the first instance.

There's no dispute that this was a scam, but although Mrs B didn't intend her money to go to scammers, she did authorise the disputed payments. Lloyds is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

### *Prevention*

I've thought about whether Lloyds could have done more to prevent the scam from occurring altogether. Buying cryptocurrency is a legitimate activity and from the evidence I've seen, the payments were made to genuine cryptocurrency exchange companies. However, Lloyds ought to fairly and reasonably be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it did enough to warn Mrs B when she tried to make the payments.

I've considered the nature of the payments in the context of whether they were unusual or uncharacteristic of how Mrs B normally ran her account and I think they were. All the payments were to legitimate cryptocurrency exchanges and the first payment was low value and in line with the usual spending on the account, so I don't think it was out of character.

Mrs B then made four attempts to pay £5,000 to B on 29 June 2022 and 30 June 2022, all of which were declined. During the calls that took place on those days, Mrs B was asked whether she'd invested in cryptocurrency before, whether anyone was helping her, if she was making the payments herself, whether anyone had contacted her, whether there was a third party involved and whether she'd been sent any links. Mrs B said she was trading, she

was being helped by a friend who she'd met in person, there was no third party involved, she was confident she would pick up on a scam, she knew what she was doing and she had done research and was confident she'd verified the investment was genuine.

Across the calls Mrs B was warned about cryptocurrency scams and told that if she lost her money Lloyds wouldn't be able to get it back. She was told to be wary of people contacting her about cryptocurrency investments and that money can be sent to wallets people don't have access to.

I've thought about what happened during the calls Mrs B had with Lloyds and I'm satisfied the questions she was asked were sufficiently probing and relevant to the circumstances. Unfortunately, Mrs B didn't disclose key facts about the investment which might have alerted Lloyds to the fact she was being scammed, including the fact she was taking advice from someone she'd found on social media who had told her she could make return of up to 85% by trading in cryptocurrency. Because of this, I'm satisfied the warnings Mrs B was given were tailored to the information available to Lloyds at the time and that her responses prevented it from giving a more robust warning or having cause to invoke the banking protocol. I've also considered the call handler's comment 'no, it's just that there are a lot of cryptocurrency scams' and I don't think it amounts to reassurance that the investment was genuine.

Based on comments Mrs B made in messages with the scammer and her responses to the questions she was asked when Lloyds did intervene, it's clear she was under the spell of the scammer to the extent that she was prepared to mislead Lloyds about the circumstances of the payments. Consequently, I'm satisfied there was nothing else it could reasonably have said or done to prevent her from going ahead with the payments at any point during the scam period.

Overall, I'm satisfied Lloyds took the correct steps prior to the funds being released – as well as the steps it took after being notified of the potential fraud. I'm sorry to hear Mrs B has lost money and the effect this has had on her. But for the reasons I've explained, I don't think Lloyds is to blame for this and so I can't fairly tell it to do anything further to resolve this complaint.

### *Compensation*

Mrs B isn't entitled to any compensation or legal costs.

### **My final decision**

For the reasons I've outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 27 March 2024.

Carolyn Bonnell  
**Ombudsman**