

The complaint

Mr P complains that Lloyds Bank PLC won't refund the money he lost after he fell victim to an 'authorised push payment' ("APP") scam.

What happened

The background to this complaint is well-known to both parties, so I won't repeat it all here, But briefly, and based on the submissions of both parties, I understand it to be as follows.

Mr P was looking to buy a vehicle and saw one for sale, on a well-known online marketplace, that he was interested in buying, which was being sold by what appeared to be an auto sales company. Mr P has said he contacted the seller, who was able to answer questions about the vehicle and told Mr P they would send documentation and some further photos of the vehicle. As well as this, Mr P has said the seller told him that other people were interested and that a deposit of 25% would need to be paid to secure the vehicle.

Mr P says he carried out a vehicle check online and, satisfied with what he'd seen, went ahead and made a payment, for £1,737.50, from his Lloyds account to the account details the seller provided. But unknown to him at the time, Mr P was dealing with a fraudster and had sent the money to an account the fraudster controlled.

Mr P raised the matter with Lloyds. Lloyds is a signatory of the Lending Standards Board Contingent Reimbursement Model (CRM) Code which requires firms to reimburse customers who have been the victims of APP scams like this in all but a limited number of circumstances. Lloyds says one or more of those exceptions applies in this case.

Lloyds issued its final response to Mr P on 28 July 2023, not upholding his complaint. In summary it didn't think there was any reason for it to intervene when the payment was made. Alongside this, Lloyds didn't think Mr P had carried out enough checks prior to sending the payment.

Unhappy with Lloyds' response, Mr P then brought his complaint to this service. One of our Investigator's looked into things, but didn't think the complaint should be upheld. In summary, she thought the price of the vehicle should have seemed too good to be true. Overall it was our Investigator's view that there was enough going on that Mr P should've had concerns and taken further steps before making the payment.

Mr P didn't agree with our Investigator's view. In summary, he said the Bank had told him that it would get his money back. Alongside this, Mr P didn't think Lloyds had acted quickly enough when he raised the scam and that this resulted in the money not being returned by the receiving bank. As well as this, Mr P said there was no reason to suggest the vehicle was priced at a rate which was too good to be true and that it should have been within Lloyds remit to notify him that the transaction was to a fraudulent account.

As agreement couldn't be reached, the complaint has been passed to me for a final decision.

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.

I'm very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

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.

As I've mentioned above, the CRM Code provides additional protection for the victims of APP scams. I'm satisfied that the payments Mr P made fall within the scope of the CRM Code. But despite offering additional protections, the CRM Code includes provisions allowing a firm not to reimburse APP scam losses fully where the firm can establish that the customer failed to take sufficient care when making the payment (often referred to as the exceptions to reimbursement).

Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that*:

- The customer made payments without having a reasonable basis for believing that: the payee was the person the Customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate.
- The customer ignored an effective warning by failing to take appropriate steps in response to that warning.

*There are further exceptions outlined in the CRM Code that do not apply to this case.

Taking into account all of the circumstances of this case, I think the concerns that Lloyds has raised about the legitimacy of the transactions Mr P was making are enough to support its position that Mr P didn't have a reasonable basis for believing the person he transacted with was legitimate. I am not persuaded Mr P had a reasonable basis for believing that the payee was the person he was expecting to pay, the payment was for genuine goods or services and the person or business he transacted with was legitimate. I'll explain why.

Mr P has explained that he had carried out an online search on the vehicle and didn't see anything that caused him any concern. I can understand how that would have reasonably given him some assurance. But the vehicle Mr P was trying to purchase was advertised at just under £7,000. Having reviewed recognised industry trade guides, which provide average vehicle sale prices based on make, model, vehicle age and mileage, this price is considerably less than what comparable vehicles were being sold for at the time of the scam. The information I have seen suggests the market value for this vehicle in this condition came back on average at around £11,000. On this basis, I think the price the vehicle was advertised for was too good to be true and ought to have raised concerns.

Whilst I accept that people can and do arrange to sell items at a discount for a quick sale, I think there were things about this situation that, in the cold light of day, did not add up. I consider that Mr P ought to have had greater concerns about the legitimacy of the seller and vehicle and that, in turn, ought to have led to a greater degree of checking on Mr P's part.

In addition to the price, the advert Mr P saw had seemingly been placed by a company, but Mr P was asked to pay an individual. I think he ought to have been more concerned about this than he ultimately was. I'm also mindful here that Mr P had asked the fraudster to provide further documentation and photos of the vehicle, but he proceeded to pay the deposit without receiving these. As well as this, I've also considered that this wasn't a situation where Mr P was located too far away to view the vehicle before making the payment, as he's said he could get to the location within an hour.

I accept that Mr P did undertake some checks, but he ultimately placed a lot of trust in strangers. I consider that Mr P ought to have had greater concerns about the deal and that, in turn, ought to have led to a greater degree of scrutiny on his part. Buying a car unseen at a considerable discount was always a big risk. I think Mr P should have done more than he did to question the arrangement before paying any money.

I'm mindful that, taking any of the individual factors above in isolation, they may not have been enough to have prevented Mr P from proceeding. But when considering the specific circumstances of this case and the factors in the round, on balance, I think that there was enough going on and sufficient red flags that Mr P ought reasonably to have taken further steps to protect himself.

With the above in mind, in the particular circumstances of this case, I consider that Mr P ought to have had concerns about the legitimacy of the goods he'd been offered and that, in turn, ought to have led to a greater degree of checking on his part. In not carrying out sufficient checks I don't find he had a reasonable basis for believing the goods were genuine.

We now know, with the benefit of hindsight, that Mr P was falling victim to a scam. But based on the information that was available to it at the time, I don't consider Lloyds would've had any reasonable basis for coming to that conclusion. I say this because I don't think the payment Mr P made would have appeared to Lloyds as being so remarkable or large, in comparison to Mr P's usual activity, that it ought reasonably to have suspected that he may have been at risk of financial harm. So I don't think the CRM Code required that Lloyds display an effective warning as part of the payment process, and I'm not persuaded it would've had any grounds for intervening to question the payment with Mr P before allowing it to be processed.

I've considered whether Lloyds did all it could to try and recover the money Mr P lost, once he had reported the scam to it. From the evidence I've seen, Lloyds did contact the beneficiary bank, but unfortunately no funds remained. In the circumstances of this case, the evidence I've seen shows that the money had been removed from the beneficiary bank before Mr P had raised the scam with Lloyds. Therefore there was no opportunity for Lloyds to have recovered the money Mr P sadly lost.

Finally, I've thought about what Mr P has said regarding Lloyds saying it would get Mr P his money back. But from the evidence I've seen and from the calls I've listened to I haven't seen anything where Lloyds make it clear that Mr P will get his money back. Lloyds has said "it would do what it can", but I'm not persuaded it is fair and reasonable to consider this as a promise to return the money. Mr P has also said that during his dealings with Lloyds, he was made to feel like a suspect and unsupported. But having looked through and considered

everything, I'm persuaded that Lloyds were professional and trying to be helpful in its interactions with Mr P and I don't agree it has done anything wrong.

Mr P has my considerable sympathies. He's found himself in an unenviable situation where he has lost money to a fraudster. And I understand the whole experience has been deeply upsetting for him and I don't underestimate his strength of feeling. But overall, for reasons explained above, I don't find that Lloyds is required to reimburse him.

My final decision

My final decision is that 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 19 March 2024.

Stephen Wise
Ombudsman