

The complaint

Mr D complains that (Lloyds) won't refund money he lost in a scam.

What happened

What Mr D says:

In August 2023, Mr D found a health device he wanted to buy on a German website. The seller was polite and answered his questions. She was selling other household items and he had no reason to suspect a fraud. He paid EUR1,500 for the device - by faster payment.

Date	Payment	Amount
9 August 2023	Faster payment in Euros	£1,336.66

The seller claimed she had sent the item, but then he lost contact with her. He reported the issue to Lloyds but was kept waiting on the phone for hours. He said Lloyds told him on the phone he should've checked the Trust Pilot website – as that showed a lot of negative reviews about the website he used to buy the item. He said Lloyds should recommend or mention Trust Pilot as a protection for scams. He says Lloyds should refund the money he's lost, especially as he is a long-standing customer.

What Lloyds said:

Lloyds said the payment wasn't covered by the Contingent Reimbursement Model (CRM) Code - as it was made to an account outside the UK. They said Mr D should've done more research - as there were many negative reviews on Trust Pilot – it showed it was full of scammers. Lloyds also said Mr D had made other, larger online payments before – so the payment in question wasn't unusual.

Lloyds didn't refund the money, but paid compensation of £30 for the length of time Mr D spent on the phone to them, and for being passed between departments.

Our investigation so far:

Mr D brought his complaint to us. Our investigator didn't uphold it. She said:

- The payment wasn't unusual for Mr D. And therefore, didn't look suspicious.
- Lloyds had information on its website which explained about the various types of scams.
- Lloyds contacted the recipient bank to try to recover the money, but it had been withdrawn and could not be recovered.

Mr D asked that an ombudsman looks at his complaint. He said If he'd been told about Trust

Pilot by Lloyds, he wouldn't have made the purchase. So - Lloyds should've done that. He said again that the seller had been selling on the website for six months, and all seemed genuine. He paid the money to the seller's husband – who had the same surname, and so it seemed genuine.

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 sorry to hear that Mr D has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr D didn't intend for the money to go to a scammer, he is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. 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 anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had 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). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

I need to decide whether Lloyds acted fairly and reasonably in its dealings with Mr D when he made the payments, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply in this case. That is because it applies to faster payments made to a UK beneficiary – and in this case, the payments were made to an overseas account.

The important matter here is whether this was a payment that Lloyds might reasonably have considered unusual, and therefore whether they should've held or stopped the payment and contacted Mr D about it.

I looked at Mr D's account history with Lloyds. And I don't think the payments were unusual for him as:

- He had made other, similar payments in the past, e.g.:
 - August 2022: £20,000; £149,000.
 - September 2022: £7,791.
 - October 2022: £1,000; £4,000.

- July 2023: £602; £970.
- He made 68 online payments in the 12 months leading up to the scam payments.

There's a balance to be made; Lloyds has certain duties to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction as this would cause unnecessary disruption to legitimate payments. And here - this was a single payment and for a relatively low amount. Therefore, in this case, I think Lloyds acted reasonably in processing the payment – I don't think that I could reasonably say that Lloyds should have stopped the payment for further checks.

Recovery:

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Lloyds took the necessary steps in contacting the bank that received the funds – in an effort to recover the money. Lloyds told us they contacted the recipient bank and were told on 29 August 2023 - no funds remained to be repaid. And, in all honesty, it is rare for a firm to achieve any recovery from an overseas bank – as those banks have fewer obligations to do so.

Mr D has argued that Lloyds should effectively recommend using Trust Pilot in their scams warnings. So, I've thought about that – and, given the size of the payment (and Mr D's payment history), I don't think Lloyds needed to send a 'tailored' warning to Mr D about the specific payment in question.

But I can see that on Lloyds' website they do give general warnings about the checks customers should make. And in the circumstances of this complaint, these were enough. One says: *"Before sending money outside of the UK... Please make sure you're sending it to someone you know, or have looked into and trust."*

If a payment turns out to be fraudulent It's very hard for you to get your money back. This is because paying directly into a bank account is like handing over cash - which is hard to trace."

And another says: *"Buying online scams...Fraudsters can target anyone who buys online, including the most confident shoppers as they may buy without thinking. That's why fraudsters set up social media profiles and even create websites to offer things for sale."*

I don't think we can expect Lloyds to recommend a particular 'trust' or 'reviews' website for customers to use. Of course if Lloyds did so - it has an associated problem: that customers might say that Trust Pilot (or any other reviews site) is responsible for any losses in some circumstances, and that wouldn't be reasonable. There are of course many similar reviews sites available, and it's reasonable that customers use the various search engines and review websites to check the authenticity of a seller – not just Trust Pilot.

Mr D has said Lloyds should refund the money as he's a long-standing customer – but I can't direct Lloyds to do that, as it's a commercial decision for the bank to make.

I'm sorry Mr D has had to contact us in these circumstances. I accept he's been the victim of a cruel scam, but I can't reasonably hold Lloyds responsible for his loss.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 4 March 2024.

Martin Lord
Ombudsman