

## The complaint

Miss O complains that Lloyds Bank PLC Ltd won't refund money she lost when she was a victim of a crypto investment scam.

## What happened

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

Miss O decided to invest with a firm I'll refer to as 'I'. Before investing with 'I', Miss O says she carried out due diligence that included checking the Financial Conduct Authority's website, as well as online research such as reviewing Yahoo Finance articles and watching YouTube videos - which showed hundreds of people at one of their conferences. Under the belief 'I' was legitimate, Miss O made the following payments, through opening banking, to a legitimate crypto exchange before the funds were sent to 'I's trading platform:

Date	Transaction type	Amount
9 November 2023	Faster payment	£100
10 November 2023	Faster payment	£1,100
	<b>Total</b>	£1,100

Miss O realised she'd been scammed when withdrawal funds weren't received as expected and when 'I' asked for a fee before ultimately deleting her account. Miss O notified Lloyds that she'd been scammed on 27 November 2023.

Lloyds investigated what happened but rejected the complaint and wouldn't refund the payments. In short, they said:

- Miss O initially reported the scam payments as ones that she didn't recognise. She then later said she'd received a telephone call from a person who spoke to her about crypto – and assisted her in downloading mobile phone apps for the crypto exchange and 'I's trading platform.
- Miss O had confirmed nobody else had access to her mobile device. Nor had she allowed anyone access through third party sharing software or shared her mobile banking details with anyone.
- Miss O had logged on to her mobile banking using biometric security at the time of the payments.
- Although Miss O had told them she wasn't sure what opening banking is or that she'd used it before, they could see on their systems she had used it before.
- They couldn't see how anyone else could've made these payments. And while they always monitor account activity, these payments were made on Miss O's registered device following a log in via biometric security. Because

of this, they had no concerns with the payments or reason to intervene in them.

- They did however pay £50 to Miss O for the way they made her feel when speaking to her about the fraud claim.

The complaint was referred to the Financial Ombudsman. Miss O clarified that she didn't authorise the payments in the sense that she didn't know she was talking to a fraudster and had sent money to a firm that she believed was genuine. She considered Lloyds had failed to protect her from the scam as they didn't provide her with any warnings before processing the payments despite them being out of the ordinary for her. Miss O said a conversation from Lloyds about the payments would've prevented her loss. And that she should be reimbursed under the Contingent Reimbursement Model (CRM) code.

Our Investigator didn't however think Lloyds had to do anything further. He said, while Lloyds are signed up to the CRM code, these payments aren't covered under it as they were made to an account held in Miss O's own name. And he didn't think the payments were unusual or suspicious enough to have expected Lloyds to have carried out additional checks before processing them. So, he didn't think Lloyds should reasonably have prevented Miss O's loss. Our Investigator also explained that the only option of recovery would've been for Lloyds to have contacted the crypto exchange. But it appears the funds had already left Miss O's crypto wallet but, even if they hadn't, they would've been in Miss O's control to access if she wished.

Unhappy with this, Miss O requested her case be reviewed by an Ombudsman. The matter has therefore been passed to me to decide. Miss O has, in short, said:

- Lloyds agreed to protect customers from scams when they joined the CRM code. And they agreed to reimburse customers who aren't at blame for being scammed – but she hasn't received any refund.
- Under the CRM code, she would be refunded. And although the Investigator says she isn't covered under the CRM code, the scam still violated the terms of the CRM code and so this should be considered.
- Lloyds investigated the transactions incorrectly by treating it as fraud rather than a scam. And so, they've followed the wrong process.
- She is an innocent victim of a scam and banks should be there to protect customers but there weren't any extra security measures put in place. And here, Lloyds took no steps to protect her or question the large £1,000 payment despite this being about double her highest recent transaction – it was therefore out of character for her.
- Banks should have additional security measures to protect customers whereby the transaction exceeds a certain value, such as £500. This is because scams are becoming increasingly sophisticated and hard to detect.
- She didn't act negligently as she carried out her research before investing.
- She is a vulnerable victim of a scam and Lloyds have made this situation more difficult – with losing this large sum of money affecting both her physical and mental health.

- Lloyds didn't handle her fraud claim appropriately and they made her feel worried and scared to speak to them – adding greater pressure and stress, as well as contributing to her increased anxiety and sleepless nights.
- Lloyds has already agreed their customer service was poor and she wasn't kept updated during their investigation.

### **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 Miss O has been the victim of a scam. I don't underestimate the impact this has had on her as I appreciate it is a significant amount of money for her to lose. But while I'm extremely sympathetic to Miss O's circumstances, as I fully accept she was deceived by the scammer, I must consider whether Lloyds is responsible for the loss she has suffered. I know this won't be the outcome Miss O is hoping for, but for similar reasons as our Investigator I don't think they are. So, I don't think Lloyds has acted unfairly by not refunding the payments. I'll explain why.

Before I do, I'd like to say at the outset that if there is a submission I've not addressed; it isn't because I've ignored the point. It's simply because my findings focus on what I consider to be the central issue in this complaint – that being whether Lloyds was responsible for Miss O's loss.

My first consideration is in relation to the CRM code which can offer a potential means of obtaining a refund following scams like this one. But as our Investigator explained, while Lloyds has signed up to the CRM code, the payments unfortunately aren't under it. This is because the CRM code doesn't cover payments made to an account held in a person's own name – which is what happened here. And so, while I appreciate Miss O's point that the scam otherwise violated the terms of the CRM code, I can't fairly direct Lloyds to refund payments under the CRM code if they're not covered by it. I've therefore considered whether Lloyds should reimburse Miss O under any of their other obligations

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. It isn't disputed that Miss O knowingly made the payments from her Lloyds account – albeit under the direction of the scammer as she believed I to be a legitimate firm. And so, I'm satisfied she authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of her account, Lloyds are expected to process Miss O's payments and she is presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for Lloyds to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

So, the starting point here is whether the instructions given by Miss O to Lloyds (either individually or collectively) were unusual enough to have expected additional checks to be carried out before the payments were processed.

When considering this, I've kept in mind that banks process high volumes of transactions each day. And that there is a balance for Lloyds to find between allowing customers to be able to use their account and questioning transactions to confirm they're legitimate. Here, the payments were made to a legitimate crypto exchange. And while there are known fraud

risks associated with crypto, as scams like this have unfortunately become more prevalent, many individuals invest in crypto legitimately.

Having looked at Miss O's prior account usage, her account was typically used for low value day to day transactions. But while I accept the £1,000 payment was higher than payments Miss O commonly made on her account, it isn't unusual for customers to make larger payments from time to time as part of normal account activity. And I don't think the payments here, either individually or collectively, were of a monetary value whereby I would've expected Lloyds to have had sufficient reason to suspect Miss O was at risk of financial harm from fraud.

It follows that I think it was reasonable for Lloyds to assume the payments were being made for legitimate crypto purposes. And so, I wouldn't have expected Lloyds to have taken additional steps or carried out additional checks before processing the payments.

I've considered whether, on being alerted to the scam, Lloyds could reasonably have done anything to recover Miss O's losses, but I don't think they could. The only possible option for recovery here, given the payments were made by faster payment, would have been for Lloyds to have contacted the beneficiary bank – that being the crypto exchange. But Miss O has explained the funds were moved from this crypto exchange to 'I's trading platform. And so, there wouldn't have been any funds remaining for Lloyds to recover. But even if there were funds left, Miss O would've had access to the funds and could've removed them herself at the time – and quicker than any recovery attempt by Lloyds.

I understand Miss O has also raised concerns about how these payments were investigated by Lloyds and the service they provided to her. It seems Lloyds initially considered the payments as unauthorised transactions as they're understanding, from their first conversation with Miss O, was that she didn't recognise them. But after getting further information, they explained in their response to Miss O's complaint that, due to the payments being made through her registered device by way of biometric security, they had no reason to intervene. And as I've explained above, I wouldn't have expected Lloyds to have taken additional steps or carried out additional checks before processing the payments.

I've also thought about the customer service provided by Lloyds to Miss O. And I don't think it took an unreasonable amount of time for them to consider her fraud claim – as it took just under two weeks. And while I appreciate Miss O found Lloyds' customer service poor, I must bear in mind that it is the scammer that is responsible for most of the upset caused here. So, while I appreciate Lloyds could've handled things better, the £50 compensation doesn't seem unreasonable in the circumstances. I therefore won't be directing Lloyds to increase it further.

I have a great deal of sympathy for Miss O and the loss she's suffered. I appreciate she is the innocent victim of a scam and has incurred a significant loss because of what happened. But it would only be fair for me to direct Lloyds to refund her loss if I thought Lloyds was responsible – and I'm not persuaded that this was the case. For the above reasons, I think Lloyds has acted fairly and so I'm not going to tell them to do anything further.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 22 October 2024.

Daniel O'Dell  
**Ombudsman**