

The complaint

Mr A complains that Lloyds Bank PLC Ltd won't refund money he lost when he was a victim of a crypto 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.

After following a social media influencer that posted about the profits they were making through trading, Mr A contacted them and decided to invest. He made the following payments, via legitimate crypto exchanges, to the scammer's trading platform (that I'll refer to as 'F'):

Date	Transaction type	Amount
9 July 2023	Debit card	£300
21 July 2023	Debit card	£303.79
27 July 2023	Debit card	£498.76
28 July 2023	Debit card	£330
31 July 2023	Debit card	£500
31 July 2023	Debit card	£300
3 August 2023	Debit card	£525.53
Total		£2,758.08

Mr A realised he'd been scammed when, after contacting the scammers about recovering his trading losses, he was blocked. Mr A contacted Lloyds about the matter but they rejected his complaint and wouldn't refund the transactions. In short, they said:

- Mr A told them he began to get suspicious after the second payment but, due to wanting to get his money back, he continued to deposit more. They'd always ask for as much verification as possible to be done before sending money – this could be by looking at reviews, contacting the companies directly and researching them online.
- The payments were sent to a wallet in Mr A's own name before being moved on to F.
- They didn't think Mr A did enough to protect his account and verify who he was speaking with.
- They recommended that Mr A contact the crypto exchanges to see if they could help.

Mr A referred his complaint to the Financial Ombudsman. Our Investigator didn't however think Lloyds had to do anything further. This was because she thought the payments weren't sufficiently unusual or suspicious enough to have expected Lloyds to have carried out additional checks before processing them. And so, she didn't think they should reasonably have prevented Mr A's loss. Our Investigator also explained that the only option of recovery

was via chargeback - but this likely wouldn't have been successful as Mr A received the service from the crypto exchanges.

Unhappy with this, Mr A requested his case be reviewed by an Ombudsman. The matter has therefore been passed to me to decide. Mr A has, in short, further added:

- It can't be right that someone can take his hard-earned money from him. The scammers also continue to message him asking him to make further payments to recuperate the money he's lost, and saying they'll give him his money back if he makes a video saying how much profit he's made.
- The scammers told him to screen record all the transactions and if anything happened he could go to his bank and it would all be sorted.
- £2,700 may not be a lot to the scammer but it's impacted him greatly.

Our Investigator acknowledged everything Mr A said and agreed that it wasn't right that scammers did this to people. But she remained of the view that Lloyds wasn't responsible for Mr A's loss. She did however suggest that Mr A block the scammer and not send any further money.

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 Mr A has been the victim of a scam. I don't underestimate the impact this has had on him and I understand why he's trying to do everything he can to get his money back. I'd also reiterate what our Investigator has said in that I would discourage Mr A from sending any further money – as it's highly likely he would lose this too. But while I'm sympathetic to Mr A's circumstances, as I fully accept he was deceived by the scammers, I must consider whether Lloyds is responsible for the loss he has suffered. I know this won't be the outcome Mr A is hoping for, but for similar reasons as our Investigator I don't think they are. And so, I don't think Lloyds has acted unfairly by not refunding the payments. I'll explain why.

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 Mr A knowingly made the payments from his Lloyds account and so, I'm satisfied he authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of his account, Lloyds are expected to process Mr A's payments and he 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 Mr A to Lloyds (either individually or collectively) were unusual enough to have expected additional checks being 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 legitimate crypto exchanges. 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 Mr A's prior account usage, I don't think the scam payments were of a significant enough value, either individually or collectively, to have been seen by Lloyds as being unusual or out of character for Mr A. The payments also weren't made in quick succession, which can be a common feature of scams, but were spread over several weeks. I therefore don't think Lloyds had sufficient reason to suspect Mr A was at risk of financial harm.

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 Mr A's losses, but I don't think they could. The only possible option for recovery here, given the payments were made by debit card, would have been via a chargeback claim. But given these payments were for the purchasing of crypto with legitimate firms, I don't think a chargeback claim would have been successful as Mr A received the service he paid for. As such, I think it was reasonable for Lloyds not to have raised a chargeback claim here.

I have a great deal of sympathy for Mr A and the loss he's suffered, as I appreciate it is significant sum of money to him. But it would only be fair for me to direct Lloyds to refund his 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 Mr A to accept or reject my decision before 29 May 2024.

Daniel O'Dell
Ombudsman