

The complaint

Mr L complains that Lloyds Bank PLC (Lloyds) won't refund money he lost in an investment scam.

What happened

What Mr L says:

In 2022, Mr L was introduced to a scammer by his brother, who said he had made good money by trading in crypto currency with that person. Mr L's brother recommended the person and told Mr L it was a good way to generate a second income. The scammer contacted Mr L on WhatsApp and suggested Mr L invest in a mining pool.

Mr L was not a regular investor and was taken in by the scammer. He believed she was acting in his best interests. She appeared knowledgeable and convincing, using technical language.

Mr L already had an account with the crypto exchange recommended by the scammer (which I will call 'A'), so didn't need to open a new account. He was provided with a wallet address to send the funds to from the crypto exchange account A.

The scammer encouraged Mr L to make payments to the 'investment platform' from his Lloyds accounts:

Date	Payment	Amount
15 August 2022	Faster payment to Mr L's account at A	£100
15 August 2022	Faster payment to Mr L's account at A	£5,700
16 August 2022	Faster payment to Mr L's account at A	£5,000
16 August 2022	Faster payment to Mr L's account at A (from savings account) * <i>Intervention call</i>	£5,000
Total paid from Lloyds to A		£15,800

Mr L also made three payments totalling £40,100 to his account with an online bank ('B') and from there, transferred the money to the 'investment'. This is not part of this complaint but is the subject of another complaint brought to this service. But I show it as context and because it has an impact on the outcome of this complaint:

Date	Payment	Amount
17 August 2022	Faster payment to Mr L's account at B	£100
17 August 2022	Faster payment to Mr L's account at B * <i>Intervention call</i>	£24,000
19 August 2022	Faster payment to Mr L's account at B	£16,000
Total to B	Not included in this complaint	£40,100

Mr L could see the funds growing in value in his 'investment account' and was encouraged to send more to it - from his Lloyds account, via his accounts at A and B.

Mr L borrowed £50,000 from Lloyds on a personal loan payable over five years – and this was used to fund the investment scam. He said the loan was for home improvements.

After a few weeks, the scammer told Mr L he needed to put in another £100,000 to keep his account positive. Mr L then realised this was a scam and stopped contact with the scammer.

Mr L has been left with a loan which has to be paid back; and he struggles with day-to-day expenses. The scam has taken a toll on his mental health and he finds it difficult to trust anyone.

Mr L says Lloyds should've done more to protect him. He recalls Lloyds called him about one of the payments. He says Lloyds should've stopped the payments and asked him to go to a branch, following which the banking protocol should've been enacted. Mr L says Lloyds should refund the payments, plus interest at 8% per annum, and compensation of £250.

What Lloyds said:

- Lloyds said the Contingent Reimbursement Model Code (CRM) didn't apply as the money was sent to an account in Mr L's name.
- Mr L had been making regular payments to his account at A. So it was an existing payee.
- The bank did stop payments for £5,000 (from Mr L's savings account) and £24,000. But when they spoke to Mr L, he wasn't honest about what the payments were for. So, because of that, they couldn't give him relevant warnings.
- The online payments would've generated general warnings about taking precautions against fraud.
- Mr L applied for a loan for home improvements and based on his application and the information he provided; it was agreed.
- Lloyds didn't refund any money, and suggested Mr L contact firms A and B to try to get refunds.

Our investigation so far:

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

- Mr L's account with A was a pre-existing payee; Mr L had made payments to A before, e.g. in December 2021, for £2,000.
- Mr L gave the payment reason as 'Moving my money' and was given a safe account warning as a result.
- In the call about the payment for £24,000, Mr L said he was send the money to his account at B for home improvements; hadn't been told to lie, and hadn't been asked to open the account with B. None of this was honest.

Mr L didn't agree. He argued that even though he stated the payments were for home improvements, the payments were being made to A – a known crypto exchange. This didn't make sense, and Lloyds should've spotted that and warned him.

It's also commonly known that scammers ask victims to use the excuse of home improvements – so Lloyds should've been wary of his answers and warned Mr L. The scam would then have likely been uncovered.

Mr L asked that an ombudsman look at his complaint, and so it has come to me to make 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 sorry to hear that Mr L 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 L 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 L 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 another UK beneficiary– and in this case, the payments were made to Mr L's own account with A.

The important matter here is whether these were payments that Lloyds might reasonably have considered unusual, and therefore whether they should've held or stopped some of the payments and contacted Mr L.

I looked at Mr L's account history with Lloyds. And I don't think the payments were particularly unusual for him. While his account was used for normal day to day expenses, he did also make regular larger payments. I can see he paid his credit card each month – with payments up to around £3,000; and he made regular transfers to and from his Lloyds savings account of between £1,000 and £2,000. While these were not faster payments, they were nevertheless debit payment activity.

But importantly, in addition to this, Mr L did also make payments to his existing account with A. I can see he made the following payments to A:

November 2021: £59; £200.

December 2021: £2,000.

February 2022: £55.

So – Mr L's account with A was a known beneficiary, and therefore would've been seen as such by Lloyds' systems and processes.

So this, taken together, means that I don't consider Lloyds needed to intervene in the scam payments in question.

But I've gone on to consider what happened in the two interventions Lloyds made. Because I think it's more likely than not that even if Lloyds had intervened in the earlier payments (for example, the payment of £5,700 on 15 August 2022), that Mr L would've said the same and the payments would've reasonably been made.

Call -16 August 2022: £5,000:

The payment of £5,000 from Mr L's savings account had been held by Lloyds.

Lloyds' call handler asked: *"have you made these payments before (to your account at A)?"* Mr L: "yes, four or five times".

Lloyds: *"Has anyone contacted you and promised high returns on an investment?"* Mr L: "no".

Lloyds: *"once the payment has gone, if it turns out to be a scam, it's unlikely we can get any money back"* Mr L: "yes, fine".

So, on this call, Mr L wasn't honest – as he had been contacted by the scammer and he did intend to make high returns, as promised by the scammer.

And – Lloyds gave him a warning about possibly losing the money if it turned out to be a scam.

Call - 19 August 2022: £24,000:

Even though this call was about a payment to B (the associated complaint), I'm persuaded that it is relevant to the complaint I've considered.

Lloyds: "*Why are you making this payment?*" Mr L: because I want to keep some money in another account.

Lloyds: "*has anyone contacted you or asked you to move money?*" Mr L: no.

Lloyds: "*have you been contacted by someone else to move the money?*" Mr L: no

Lloyds: "*did anyone ask you to open an account with B?*": Mr L: no, it was a personal decision.

Lloyds: "*did anyone put pressure on you to send money to B?*" Mr L: no.

Lloyds: "*where did the money come from?*" Mr L: from the home improvement loan from Lloyds...I'm doing work on the house."

Lloyds: "*once we've made this payment, we cannot help you get the money back. If someone has asked you to move money, it will be a fraudster every time...with that in mind, do you want this payment to go through?*" Mr L: yes.

So here, Mr L wasn't entirely honest in his responses – he was sending payments onto the fake investment account; he had been contacted by someone and asked to make the payment; he wasn't going to use the money for home improvements. And he confirmed he wanted the payment to be made, despite Lloyds' warnings.

So based on this evidence, I'm persuaded that any earlier intervention by Lloyds – wouldn't have stopped Mr L from making the earlier payments in any case.

Putting all this together, I don't hold Lloyds liable to refund the payments made by Mr L.

I considered the further arguments made by Mr L – that payments (resulting from a home improvement loan) were being made to A – a known crypto exchange. But here, the issue of the money coming from a home improvement loan came up in the context of the call where the funds were being sent to the online bank B (not the crypto exchange A).

And beyond that, given that Mr L wasn't honest about what was going on (in several his answers), I don't think it's reasonable to expect Lloyds (in the circumstances of this case) to realise there was a scam going on.

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. I've not seen any evidence that Lloyds did so.

But given that Mr L didn't complain to Lloyds until May 2023, and the scam took place in August 2022, it is very unlikely that any funds would have remained – as normally in such scams, funds are removed from the recipient bank immediately.

I'm sorry Mr L has had to contact us in these circumstances. I accept he's been the victim of a cruel scam and has lost a lot of money; but I can't reasonably hold Lloyds responsible for his losses.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 21 May 2024.

Martin Lord
Ombudsman