

The complaint

Ms M and Mr N are unhappy Lloyds Bank PLC won't reimburse them for the money they lost when Ms M fell victim to a scam.

What happened

Ms M and Mr N are represented in this complaint by a claims management company, for simplicity I will refer to Ms M and Mr N throughout this decision, even when referencing what their representatives have said on their behalf.

In May 2022 Ms M was looking for an investment opportunity. She came across a company online – which I'll call 'A' – which said it offered investments in cryptocurrency, stocks, commodities, and foreign exchange. Ms M submitted her details and was contacted by someone claiming to work for A who explained how she could trade. Ms M says she did some research of her own and was sent various official looking paperwork regarding her investment, she also says she had access to a trading platform which appeared to show returns on her investment.

Over a period of several months Ms M invested over £90,000 in the scheme. Unfortunately, and unknown to Ms M, this investment opportunity was not legitimate, she was dealing with scammers.

Over time Ms M believed she had made a good profit, and had made some small withdrawals, but when the market started to turn – and the scammers gave her some investment advice that she considered questionable – she asked to withdraw her full profits. At this stage the scammers told her she had to pay £30,000 to access her money. Ms M became more suspicious, and she ultimately realised she had been the victim of a scam.

Ms M contacted Lloyds to tell it what had happened, via a representative, in August 2023. After looking into things, Lloyds told Ms M and Mr N that it would not be able to refund the money lost from their account. It said that it had intervened in the first three payments Ms M made to the scam, and had provided appropriate warnings, so it did not consider it should be held liable for the loss.

Ms M and Mr N were unhappy with Lloyds' response and so they referred their complaint to our service.

One of our Investigators looked into what had happened, and ultimately they felt that Lloyds could have done more to warn Ms M about cryptocurrency scams when it spoke to her about the first payment she made to the scam. However, the Investigator also felt that it was unlikely that any further intervention from Lloyds at that point would have stopped Ms M from making the payments, given that Lloyds did provide warnings about cryptocurrency scams in later conversations with her but Ms M was still happy to go ahead. So, they did not consider that Lloyds needed to refund any of Ms M and Mr N's loss.

Ms M and Mr N were unhappy with the Investigator's findings, they feel that Lloyds could have asked some more specific questions about what was happening that would have uncovered the scam and helped to prevent their loss.

As no agreement could be reached, this case has been passed to me for a 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.

Having done so I've reached the same conclusion as our Investigator, and for the same reasons.

I'm satisfied Ms M authorised the payments that are in dispute, so as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Ms M and Mr N are responsible for them. That remains the case even though Ms M was the unfortunate victim of a scam.

Because of this, Ms M and Mr N are not automatically entitled to a refund. But the regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams.

Taking the above into consideration, I need to decide whether Lloyds acted fairly and reasonably in its dealings with Ms M and Mr N, or whether it should have done more than it did.

Ms M and Mr N had held this Lloyds account for some time, and used it regularly, so there was a significant account history against which Lloyds could compare any new payments. And the very first payment that Ms M made to the scam – £25,000 to a new payee associated with cryptocurrency – was unusual enough in the context of the account that it warranted some intervention from Lloyds.

And I can see that Ms M did discuss this payment with Lloyds, but while it did ask some questions of Ms M in this call, I agree with our investigator that Lloyds could perhaps have gone further to warn Ms M about cryptocurrency investment scams. However, I can also see that Lloyds did exactly that in the later calls it had with Ms M (about her second and third payments to the scam). During those calls Lloyds laid out some of the features of cryptocurrency investment scams, and what Lloyds said should have resonated with Ms M given that the scam she was falling victim to bore many of those features. Specifically, Lloyds told Ms M that such scams could involve:

- Seeing an advert online or on social media
- Being contacted by someone saying they were a broker or could offer advice
- Being offered returns which could be seen as too good to be true

Ms M was also asked if anyone was telling her what to do regarding the transfer, and she said no and that she has full control of her cryptocurrency account. In all three of the calls with Lloyds Ms M also made it clear that she was an experienced investor, and spoke with confidence about what she was doing. She gave no indication that any third party was involved in the trades she was making. I also note that this was not the first time Ms M had made payments to a cryptocurrency related account from the Lloyds account, she had

previously made a payment for £25,000 to a different cryptocurrency provider only a few months previously.

Ms M has commented that Lloyds should have asked more detailed questions about how she found the investment, what returns she had been promised, or what trading platform she was using. But given what Ms M had told Lloyds – she had been very clear that she was an experienced investor, and had said no third party was telling her to make the payment – I think the level of questioning from Lloyds was proportionate in the circumstances. Ms M has said that her references to moving the cryptocurrency to a trading ‘platform’ should have been a red flag to Lloyds, but I don’t agree. Ms M said she was moving the funds to a trading account, and given what she had told Lloyds about her experience of investing I don’t think this would have been a cause for concern to Lloyds.

Overall Ms M came across as confident and experienced, she gave no indication that she was in any way unsure about what she was doing. She also gave no indication that any third party was involved in the investment process, despite being asked about this directly and warned about the involvement of brokers in cryptocurrency investment scams. So, I’m satisfied that Lloyds intervention from the second payment onwards was proportionate to what it knew at the time, and I consider that had it intervened in the same way on the first payment it is likely that Ms M would have still continued with the scam payments. So, I don’t think Lloyds could reasonably have prevented Ms M from continuing with the payments she wanted to make, it follows that I don’t think Lloyds could have reasonably prevented Ms M and Mr N’s loss.

I also don’t think that Lloyds could have done anything to recover these funds once Ms M reported the scam. I say this because the funds were sent to another account in Ms M’s name, to buy cryptocurrency, so there was no route through which Lloyds would be entitled to retrieve any of those funds from the recipient account.

I don’t doubt that Ms M has been the victim of a cruel scam here, and I know that she and Mr N have lost a very significant amount of money. But I’ve not seen anything to make me think it would be reasonable to hold Lloyds liable for that loss.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms M and Mr N to accept or reject my decision before 5 December 2024.

Sophie Mitchell
Ombudsman