

The complaint

Ms N complains Lloyds Bank PLC hasn't helped her locate a payment she sent to one of its customers.

What happened

I issued a provisional decision on this case and invited both parties to let me have any further comments and/or evidence. Below is a copy of what I provisionally decided and why.

What happened

Ms N asked her bank 'O' in April 2022 to send a payment for £12,738 to a third-party (C). C held an account with Lloyds. The payment was sent.

C said it hadn't got the payment and suggested Ms N use a different account name instead, as this might help route the payment to it. Ms N contacted O, providing the new details. But C told Ms N that they still hadn't got the funds.

Ms N contacted O to see if the payment could be recalled. It said it had tried but been unsuccessful. Ms N also contacted Lloyds herself for help to locate the funds. It told her that as she didn't hold the account with it, it couldn't give her information and she should contact the beneficiary of the payment instead. However, C said it didn't have the money and Lloyds wouldn't speak to them about the payment.

Ms N felt stuck and asked us to look at the complaint. Our investigator didn't think we had the power to consider the complaint under our rules because Ms N didn't hold a customer relationship with Lloyds. She explained that the intended beneficiary could try complaining to Lloyds.

Ms N didn't accept the investigator's conclusions and so her case was passed to me. I reviewed matters and found that our service does have the power to consider the complaint. I wrote to Lloyds. I referenced the rules that we are governed by – known as the DISP rules – which set out which complaints we can and can't consider.

DISP 2.7.1 says that the Financial Ombudsman can only consider a complaint if it is brought by or on behalf of an eligible complainant and there are two parts to the eligibility test. First – the complainant must meet the definition of one of the entities set out in DISP 2.7.3.

For the purpose of deciding whether we can consider a complaint by Ms N, I was satisfied she met the definition of a consumer. The second part of the test is that the complaint must also arise from matters relevant to one or more possible relationships with Lloyds – as set out in DISP 2.7.6.

There follows a list of relevant relationships. Ms N met the DISP 2.7.6(2A)R2 (A) definition. For complaints brought on or after 14 December 2018, the person that sent the payment that's gone astray can complain to us about a failure since 13 January 2018 by the payee's payment service provider (PSP) to co-operate with the sending PSP's efforts to recover the

money. The relevant rule is set out in the Payment Service Regulations (PSRs) 90 (3):

90.—(1) Where a payment order is executed in accordance with the unique identifier, the payment order is deemed to have been correctly executed by each payment service provider involved in executing the payment order with respect to the payee specified by the unique identifier.

...

(3) The payee's payment service provider must co-operate with the payer's payment service provider in its efforts to recover the funds, in particular by providing to the payer's payment service provider all relevant information for the collection of funds.

So, in very limited circumstances a sender of a payment can complain about the intended payee's bank but only in relation to an obligation to assist the payer's PSP. Therefore, I was satisfied we have jurisdiction to consider the complaint having regard for the rules, regulations and what had happened here as Ms N didn't think Lloyds had engaged with her bank.

I put this to Lloyds and it didn't refute this position so I have now gone on to look at the merits, within the remit of Regulation 90 (3).

What I've provisionally 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 don't intend to uphold this complaint. I realise Ms N will be disappointed. So, I'll explain why.

There are as I have already said very limited circumstances in which we can consider a complaint by the party sending a payment about the payee's bank.

As part of my review, I have reviewed swift messages. This is a system used by banks to exchange messages. The swift shows the payment arrived with Lloyds and was credited to an account on 22 April 2022. Ms N has provided our service with information of where she sent the funds. The key document here is the screen shots from O when sending the payment. Under the section, "Select one destination account" there appears a sort code for the beneficiary beginning with 30-91-** (anonymised). This is the sort code for the branch she named in that same instruction. I don't think Ms N intended to use this sort code, but this is the information she gave. Lloyds wouldn't have had any control over the details that were input when sending the payment.

The swift shows there wasn't initially a recall request. There was only a request from O to try a different account name and this is consistent with Ms N's own evidence of exchanges between her and C.

Lloyds rejected the request to reallocate using different details and I'm satisfied it was reasonable for it to do so, as the payment had already been completed by that point to the account number and sort code given. A bank can't arbitrarily change things, not least because of the risk of fraud and scams, even if this was an instruction from Ms N through her bank.

The swift suggests Lloyds later got a recall/retrieval request from O when the money was still missing. Following which, Lloyds contacted the account owner (the person that got the money) twice but it didn't get a response or an authority to debit the account. Lloyds relayed this information back through the swift messaging system. All of this supports why the recall

was ultimately unsuccessful. Based on this, I'm satisfied Lloyds co-operated with Ms N's PSP as far as its obligations were concerned.

The Payment Service Regulations stipulate the payee's PSP should provide the payer's PSP with all relevant information for the collection of funds. Here, Ms N knows who she intended to pay but she doesn't know who ultimately got the funds. Under Regulation 90 (4) it says that if the payer's PSP is unable to recover the funds it must, on receipt of a written request, provide to the payer all available relevant information in order for the payer to claim repayment of the funds. This is to help the payer recover the funds through other means, for example, legal action against the third party. Lloyds should be aware of this obligation and Ms N may now wish to arrange such a written request.

But having considered everything, I'm not intending to uphold this complaint against Lloyds for the reasons given.

My provisional decision

My provisional decision is I don't uphold this complaint.

Responses

Lloyds didn't add anything further. Ms N responded. In summary, she asked for validation of the account details she had and whether there had been a lack of response from the account holder, and she expressed concerns about what Lloyds should have done in this situation. She didn't think it was fair that a third party receiving the payment erroneously, could be allowed to get away with it and for the funds to suddenly belong to them.

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.

Ms N has made a number of points in response. I will concentrate on what I consider is the crux, but I have read everything.

Ms N has provided account details of where she believes she sent the payment. The sort code starts with "77-26-***" which she indicates is at odds with the sort code quoted in my provisional decision of "30-91***". She's asked for some clarification of whether the account details she's provided are valid. She's also raised concerns about her payment going to someone it wasn't intended for and why Lloyds couldn't get this back. She thinks Lloyds should have done more.

The payment clearly went somewhere else other than to the account Ms N had been intending to pay, otherwise this situation wouldn't have arisen. I was satisfied Lloyds applied it to an account with a sort of "30-91-***" and the account number she'd quoted. I've gone back and looked at the information Ms N provided us last year from O and this had this sort code on it (30-91-***). This may have been an error/mistake, but the key consideration is what should have happened next when thinking about my remit to consider this aspect of the complaint.

When money is credited to an account it wasn't intended for as a result of a mistake, the recipient bank is required to co-operate with any retrieval request it receives from the sending bank. Ms N discovered the money was missing, and she asked her bank to look into the situation. Based on the available evidence I remain satisfied Lloyds responded to O's retrieval request. It said it had tried contacting the actual recipient twice for return of funds

but had been unsuccessful in getting a response. This is what is required by the protocol, and I don't think Lloyds could have done more. Ms N has mentioned a scam, but she hadn't been tricked into sending money to a fraudster. This was a genuine payment with what appears to be a mistake at some point in the details, so different considerations (as set out above) apply.

I'm really sorry Ms N is without her money, and I understand this matter has been extremely stressful for her. But ultimately it is the case that Lloyds doesn't have her money – someone else does and this is why the Payment Service Regulations allow her to make a written request to Lloyds, for it to provide her with all available information. So that she can then try to recover that money through other means, for example, civil court action. As far as I know, Ms N hasn't made such a written request yet. So, she will need to think about doing so, which is a matter for her. But having looked at what happened at the time and subsequently, I have found no error by Lloyds. This completes our consideration of this specific complaint.

My final decision

For the reasons I've given, my final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms N to accept or reject my decision before 4 July 2024.

Sarita Taylor
Ombudsman