

The complaint

Mr K complains Lloyds Bank PLC won't refund the full amount of money he lost to a scam.

What happened

The background to this complaint is well-known to both parties, so I won't repeat it in detail here. But in summary and based on the submissions of both parties, I understand it to be as follows.

Mr K complains that from August 2023 he made several payments from his account held with Lloyds to what he believed was a legitimate investment.

Mr K says he found an investment company advertising online and registered his interest with them. Mr K was then contacted by telephone by someone from the company who said they could trade on his behalf.

Mr K sent several payments, but realised he'd been scammed when he was asked to send more payments but had no money left. So, Mr K raised a complaint with Lloyds.

Lloyds looked into the complaint but didn't uphold it. It said it had intervened several times and spoke to Mr K, and he confirmed he was comfortable with what he was investing in and that he was doing it on his own. So, Mr K brought his complaint to our service.

Our investigator looked into the complaint but also didn't uphold it. Our investigator said that the Lloyds advisors that spoke to Mr K questioned him on the investment and he wasn't giving them accurate responses. So, he was satisfied Lloyds couldn't have prevented Mr K from losing the money he did to the scam.

Mr K and his representative didn't agree with the investigator's view. He thought banking protocol should've been put in place at an early stage and he should have been made to attend a branch. So, the complaint's been passed to me to decide.

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 very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I've decided to not uphold this complaint for materially the same reasons as our investigator. I'll explain why.

I'm sorry if Mr K lost money but this doesn't automatically entitle him to a refund from Lloyds. It would only be fair for me to tell Lloyds to reimburse Mr K if I thought it reasonably ought to have prevented the payments or it unreasonably hindered recovery of the funds.

- It isn't in dispute that Mr K authorised the transactions in question. He is therefore presumed liable for the loss in the first instance. However, Lloyds is aware, taking longstanding regulatory expectations and requirements into account, and what I consider to be good industry practice at the time, that it should have been on the look-out for the possibility of fraud and made additional checks before processing payments in some circumstances.
- But here Lloyds did intervene - several times. Lloyds also intervened and spoke to Mr K at the places I'd expect it to, which was the payment of £10,900 on 29 September 2023. Although I think the payments Mr K sent on 18 September should've triggered an automated warning for Mr K, I don't think it would've had any impact in stopping Mr K sending further payments. I'll explain why.
- Payment 17 of £10,900 was of a higher value than the previous payments Mr K had made, and a member of the Lloyds team did call and speak to Mr K. I've listened to the intervention calls Mr K had with Lloyds (seven in total) and I'm satisfied the calls described the exact situation and scam Mr K was falling for. Mr K was also given strong warnings regarding cryptocurrency and investment scams, and the questions were open and probed into what Mr K was investing in and how he was doing it. It's clear from listening to the calls that Mr K wasn't giving accurate answers to the advisors. At one point Mr K says he is buying Bitcoin but leaving it in his wallet. So, I'm satisfied Lloyds did as much as they could to prevent Mr K from losing the money he did to the scam, but it had no impact.
- Mr K's representatives have said that as the Lloyds advisors were confident Mr K was being scammed, they should've triggered banking protocol and made him attend a branch. I've considered this point carefully, but I don't agree. Mr K was receptive to the warnings and questions being asked, and given he was answering the questions the advisors were giving and reassuring them he wasn't at risk of financial harm, I'm not convinced there were enough red flags to suggest banking protocol needed to be put in place. Mr K wasn't showing any examples of ignoring what the advisors were telling him that I'm convinced they could've picked up on – there were also no signs Mr K was vulnerable at this point.
- I can't be sure why Mr K wasn't giving accurate answers to the advisors he spoke to, as he has provided very little in the way of evidence from the scam. But in doing so, he made it extremely difficult for Lloyds to unearth the scam he was falling victim to.
- Although Lloyds are signed up to the Contingent Reimbursement Model (CRM), the code doesn't cover payments sent to customer's own accounts or debit card payments.

Recovery

Payment 1 does look like it may have gone to an individual but was sent some months before Mr K reported the scam. From what we generally know of scammers, they tend to move the funds on to different accounts or withdraw the money very shortly after the event.

After payment 1, Mr K completed transfers directly to his own account within the cryptocurrency exchanges. These funds were then sent on to a wallet address provided by the scammers. Lloyds would only ever have been able to attempt to recover the funds from the wallets where they were originally sent, which were still in Mr K's control. If these funds had not already been transferred to the scammers, they would be in Mr K's control to access as and when he chose. Therefore, I am satisfied Lloyds wouldn't have been able to recover the funds once moved from Mr K's wallet onto the scammer and I don't think I can hold Lloyds responsible for Mr K being unable to recover his funds.

Having carefully considered everything Mr K and Lloyds have submitted, I don't find Lloyds could have reasonably prevented Mr K's losses here. I appreciate this will not be the answer Mr K would like me to give, and I am sorry to have to disappoint him. I recognise he has lost a significant sum to a particularly cruel investment scam. But it is simply the case that I don't consider I can fairly and reasonably hold Lloyds liable for that loss.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 19 April 2025.

Tom Wagstaff
Ombudsman