DRN-4847416

The complaint

Mr A complains about Lloyds Bank PLC.

He says that Lloyds didn't do enough to protect him when he became the victim of a scam and would like it to refund him the money he has lost.

What happened

Mr A unfortunately fell victim to a task-based job scam where he was told he needed to purchase tasks via cryptocurrency and would then be paid commission.

Mr A made several payments as part of the scam, totalling £3,939.41.

He complained to Lloyds about what happened and said that it didn't do enough to protect him, but it didn't uphold his complaint.

Mr A then brought his complaint to this Service. Our Investigator looked into things but didn't think that Mr A's complaint should be upheld.

Mr A asked for an ombudsman to make a final decision, so the complaint has been passed to me.

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 decided not to uphold Mr A's complaint for broadly the same reasons as our Investigator. I know this will be disappointing for Mr A, so I'll explain why.

It isn't in dispute here that Mr A has been the victim of a scam and has lost money as a result. However, even when it is clear that a scam has taken place, and an individual has been tricked out of their money, it doesn't necessarily follow that a business will need to refund the money that has been lost.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider having been good industry practice at the time.

In broad terms, the starting position at law is that banks and other payment service providers (PSP's) are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (PSRs) and the terms and conditions of the customer's account.

Mr A authorised the payments in question here – so even though he was tricked into doing so and didn't intend for his money to end up in the hands of a scammer, he is presumed liable in the first instance.

But this isn't the end of the story. As a matter of good industry practice, Lloyds should also have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction

Taking into account the above, 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 made 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.

In this case, I need to decide whether Lloyds acted fairly and reasonably in its dealings with Mr A when he authorised payments from his account or whether it could and should have done more before processing the payments.

Having looked at the payments Mr A made as part of the scam, I am not persuaded that any of the payments would have been suspicious or unusual enough for Lloyds to have needed to get in touch with Mr A to check all was well. While the payments were going to crypto, they weren't individually high in value, and not every such payment is made as part of a scam.

However, Lloyds *did* intervene with the payments Mr A was making – it spoke with him on the phone and eventually invited him into branch to talk about what he was doing. During the call, Lloyds questioned him about what he was doing and why – and explained that what he was explaining to them didn't make sense, and that it sounded like a scam, but Mr A continued to make the payments.

In a later call, Mr A then wasn't honest about what he was doing – he said that he was sending money to family – but Lloyds wouldn't remove the block on his account until he went into branch. When Mr A attended the branch, he was put on the phone to the fraud team again, he was asked to show branch staff that he had control over the account he was sending money to and asked if he was confident and done his research. Mr A confirmed that he had done so, and that he was happy to proceed.

So, with this in mind, I think that Lloyds provided Mr A with a proportionate and effective warning – even though I don't think that it needed to intervene at the time.

I am very sorry that Mr A has lost his money to a scammer – but the loss has been caused by the scammer themselves, not by Lloyds, and I can't ask Lloyds to refund him when I don't think that it has done anything wrong.

My final decision

I don’t 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 16 July 2024.

Claire Pugh
Ombudsman