

The complaint

Mr H complains that Lloyds Bank PLC won't reimburse him after he fell victim to a scam. He also complains that following the scam, Lloyds closed his account.

What happened

I issued a provisional decision on this case on 3 June 2024. I've copied the content of that document below:

I've considered the relevant information about this complaint.

Having given both parties time to consider my initial provisional decision and provide further evidence and arguments, I've now reached a different outcome to my previous provisional decision and don't intend to uphold this complaint.

I'll look at any more comments and evidence that I get by 17 June 2024. But unless the information changes my mind, my final decision is likely to be along the following lines.

What happened

Both parties are aware of the circumstances surrounding this complaint, so I won't repeat them in full here. But briefly, both parties accept that in around May 2023, Mr H's friend sent him an email regarding what they both believed was a job opportunity to work for a well-known hotel chain, and also obtain a working Visa for the UK. Unfortunately, unknown to Mr H at the time, the emails were in fact from a fraudster.

Mr H contacted the details provided within the email, expressing his interest and received a response providing application and interview forms. Once Mr H completed and returned these, he was advised he was successful in his application and was provided with details of a barrister (also a part of the scam) to liaise with further.

This 'barrister' told Mr H he needed to pay for a 'Working Registration Scheme', which was £295 and provided payment details to do so. After Mr H made this payment, he was told the documents he was providing needed to be 'cleared and endorsed by the Department of Labour and Employment' which will cost a further £530. Mr H did question this, explaining he'd read in the company policy that he just needed to pay £295, but the fraudster reiterated that this was to clear and endorse Mr H's documents. Mr H then made this second payment to the fraudster.

Following this, the fraudster told Mr H a third payment was required to pay for fees and for the Visa, totalling £2,136. Again, Mr H raised concerns about being required to make a third payment, but then proceeded to pay it.

When Mr H was asked to make a fourth payment, he became suspicious and spoke to his teacher, who uncovered that Mr H had been the victim of a scam. At this point, Mr H contacted Lloyds to raise a fraud claim.

Lloyds investigated Mr H's claim and considered its obligations to provide him with a refund. Lloyds is a signatory of the Lending Standards Board Contingent Reimbursement Model (CRM) Code, which requires firms to reimburse customers who have been the victims of authorised push payment (APP) scams like this in all but a limited number of circumstances. Lloyds says one or more of those exceptions applies in this case.

Lloyds has said Mr H didn't have a reasonable basis for believing he was making a legitimate payment. It doesn't consider Mr H did enough to verify that he was making legitimate payments to a genuine barrister. However, it did accept it could have done more to protect Mr H from financial harm on the second and third payments he made – as these were higher in value than his typical account spending. It therefore refunded Mr H 50% of these two payments. Lloyds also advised Mr H that it had made the decision to close his account, and gave him two months' notice to find a new banking provider.

Mr H remained unhappy and referred his complaint to our service. An investigator considered the complaint but didn't uphold it. She thought there were concerning factors in what the fraudster told Mr H, that ought to have made him question the legitimacy of the individual. She also thought Lloyds had acted reasonably in the notice it provided Mr H before closing his account.

Mr H disagreed with the investigator's view, so the complaint has been referred to me for a final decision.

I previously issued a provisional decision, setting out why I didn't think Lloyds needed to do anything further to put things right for Mr H regarding his complaint about the scam payments he made, but recommending Lloyds provide £100 compensation for closing Mr H's account and not providing a reason for doing so to our service. Since issuing my provisional decision, Lloyds has provided reasons for choosing to close Mr H's account, which I've taken into consideration for this further provisional decision.

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, while I'm sorry to disappoint Mr H, I don't intend to uphold his complaint. I'd therefore like to explain my reasons why.

Mr H's complaint regarding the scam payments he made

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 to be good industry practice at the time.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the consumer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the consumer even though they authorised the payment.

When thinking about what is fair and reasonable in this case, I've considered whether Lloyds should have reimbursed Mr H under the provisions of the CRM Code and whether it ought to have done more to protect Mr H from the possibility of financial harm from fraud.

The CRM Code

As I've mentioned, Lloyds is a signatory of the Lending Standards Board Contingent Reimbursement Model (the CRM Code) which requires firms to reimburse customers who have been the victims of APP scams, in all but a limited number of circumstances and it is for Lloyds to establish that a customer failed to meet one of the listed exceptions set out in the CRM Code.

Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that:*

- The customer ignored what the CRM Code refers to as an "Effective Warning" by failing to take appropriate action in response to such an effective warning*
- The customer made payments without having a reasonable basis for believing that: the payee was the person the Customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate*

**Further exceptions outlined in the CRM Code do not apply to this case.*

Based on the evidence I've seen, I don't think Mr H had a reasonable basis for believing he was making legitimate payments towards a Visa permit. I say this because Mr H hasn't conducted any checks himself to ensure that the role he was applying for definitely existed, for example by researching available roles further through the hotel's direct channels. I also don't think that what he was being offered was realistic for the role he was applying for. For example, as well as a salary, he was offered paid for accommodation, food, a phone, television and internet services. The location of the role also changed from London to Glasgow which Mr H didn't question. While Mr H completed interview questions online, it doesn't appear he ever spoke to anyone by phone or in person, purporting to work for the hotel chain, which I consider would be an expected part of most interview processes.

He also didn't complete any checks through official channels on what requirements and fees were involved in obtaining a Visa. Had he done so it appears the amounts he was paying weren't in line with what would be expected, and the role and organisation he was applying with doesn't offer this type of workplace Visa. I appreciate that Mr H had been living in the UK for less than a year, so application processes may be unfamiliar to him – but as he was studying in the UK at that point, I think it's most likely he'd have needed to have gone through some prior Visa process in order to do so.

The correspondence he received from the barrister also had elements to it that I think ought to have caused concern and warranted further checks. Mr H was making payments to an individual's account whose name had no link to either the hotel chain he believed he was going to work for, or the 'barrister' who was completing the application process on his behalf. When asked why Mr H didn't question why he was paying a personal account, he states he didn't realise that this was what he'd done.

For the reasons I've set out above, while I entirely appreciate that Mr H didn't realise he was falling victim to a scam, I think there was enough going on that Mr H ought to have had concerns about the payments he was making. I therefore think it's reasonable for Lloyds to rely on this exception of the CRM Code as a reason to not fully reimburse Mr H.

Could Lloyds have done more to protect Mr H from financial harm from fraud?

When reviewing Mr H's fraud claim, Lloyds concluded that it could have done more to protect Mr H when he made the second and third payments to the fraudster. However, it doesn't think the first payment Mr H made was so unusual that it ought to have done more to intervene prior to processing the payment.

The CRM Code states that effective warnings should be provided where firms identify APP scam risks in a payment journey. Having considered Mr H's account statements prior to the scam taking place, I agree that when Mr H made the first payment towards the scam, there wasn't a clear APP scam risk at that point. I therefore don't think Lloyds reasonably needed to provide an effective warning to Mr H at that time, or intervene further. I therefore think the offer Lloyds has already made to refund Mr H 50% of subsequent payments is fair and reasonable to reflect the liability it should share towards the scam.

Once it was made aware of the scam, Lloyds contacted the beneficiary bank the same day but unfortunately was advised that none of Mr H's funds remained. As Mr H didn't become aware of the scam until a few days after the final payment had been made, I don't think any swifter action on Lloyds' part would've likely impacted the outcome for Mr H – as I think it's more likely than not that funds would have been moved on by the fraudster by the time Mr H had contacted Lloyds.

I'm very sorry that Mr H has fallen victim to this cruel scam – and I have no doubt it's had a huge impact on his life both financially and emotionally. But for the reasons I've explained, I think the offer Lloyds has already made to acknowledge its own liability is fair and reasonable and therefore I can't ask that it pays anything further towards Mr H's losses.

Mr H's complaint regarding his account closure

Banks can review the customer relationships they hold and can close accounts when they have a genuine commercial reason. They should act within their terms and conditions when taking a decision to close an account. And they don't currently have to provide their reasons to customers. So, I don't require Lloyds to tell Mr H why his account was closed.

Lloyds do however have to provide their reasons to our service in order for us to be able to decide whether they have acted fairly. Since issuing my provisional decision, Lloyds has provided further evidence on why it made the decision to close Mr H's account.

Our rules allow us to receive evidence in confidence. We may treat evidence from banks as confidential for a number of reasons – for example, if it contains information about other customers, security information or commercially sensitive information. Some of the information Lloyds has provided is information that I consider should be kept confidential. But I'd like to reassure Mr H that I'm satisfied, based on the evidence I've seen, that Lloyds acted fairly in taking the actions it did.

I appreciate the closure of Mr H's account was upsetting to him and caused him additional stress. However, as I consider Lloyds acted fairly in taking these actions, I'm not minded to ask Lloyds to do anything further to put things right for Mr H.

My provisional decision

My provisional decision is to not uphold Mr H's complaint against Lloyds Bank plc.

Both parties have now had the chance to respond to the provisional decision. Neither party provided any further comments.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As neither party provided any further comments following my provisional decision, I remain of the view that Lloyds doesn't have to do anything further to put things right for Mr H.

My final decision

My final decision is that I don't uphold Mr H's complaint against Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 16 July 2024

Kirsty Upton
Ombudsman