

The complaint

Mr B complains that Lloyds Bank PLC (Lloyds) won't refund money he lost in an investment scam.

What happened

What Mr B says:

Mr B is represented by a third-party claims firm. He had recently lost his wife to Covid. He was a student and she was the main earner in the family. He was looking to invest the money from his late wife's pension fund.

He says he was contacted by one of his close friends – his old university lecturer. The friend told him he had successfully invested in crypto currency. He introduced him to an investment company (which I will call 'company A').

Because of his friend's background, Mr B trusted his expertise and assumed he'd done research to verify the investment was genuine. Mr B could see that company A was listed at Companies House.

Mr B was given a link to the website of company A by his friend – as he would benefit from an introduction fee. Mr B filled out an inquiry form and was shown company A's website - it looked advanced and high tech. It would show him how much profit he could make. He was told he could make 2% per day profits.

Mr B was asked to download screen sharing software and open an account at a crypto exchange (which I will call 'company C'). He was instructed to send money from his Lloyds account to company C and from there, to the investment company A. **(continued)**

Mr B made two successful payments in May 2021:

Date	Payment	Amount
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25 May 2021	<i>Faster payment to Mr B's account at company C – blocked by Lloyds</i>	(£5,000)
25 May 2021	Faster payment to Mr B's account at company C	£10
25 May 2021	Faster payment to Mr B's account at company C	£20,000
Total		£20,010

Mr B says Lloyds spoke to him at the time of the payments but after some questions, made them.

The scam came to light when Mr B wanted to withdraw his 'profits' - but the website didn't work. Company A said there had been a 'technical issue' – the website had been hacked into. But the platform then disappeared and Mr B (and his friend) realised they'd been scammed.

As a result of the scam, Mr B has lost most of his savings – which came from his late wife's pension and which he needs to support his two young children, for who he is now the main carer. As a result of everything that's happened, he has become depressed and feels his life is spiralling.

Mr B recalls the contact with Lloyds – but says the bank didn't go far enough to warn him he was being scammed. So, he says Lloyds should refund the money he's lost plus compensation of £500.

What Lloyds said:

Lloyds didn't refund any money. The bank said the Contingent Reimbursement Model (CRM) Code didn't apply – as the money was sent to an account in Mr B's name; and Mr B should contact company C, from where the payments were made to the fake investment company A.

Lloyds said they intervened in a payment attempted by Mr B on 25 May 2021. They said they'd given clear advice to Mr B and what checks he should do. They advised him to look at the Financial Conduct Authority's (FCA) website to get further information, hints and tips; and the risks he was taking if the company wasn't on the FCA register. **(continued)**

Our investigation so far:

Mr B brought his complaint to us. Our investigator didn't uphold it. He said:

- Lloyds blocked a payment of £5,000 on 25 May 2021 and discussed this with Mr B.

- He reviewed the call and was satisfied that Lloyds gave Mr B sufficient warnings and guidance as to what to do when making payments for crypto currency investments.
- The call handler provided advice to Mr B about looking at the FCA's website (and its register) to ensure the investment company A was genuine.
- He noted that in his evidence to us (via the third-party claims firm), Mr B said he was introduced to the opportunity by his old university lecturer, whereas on the call he said it was his uncle.

Mr B didn't agree and asked that an ombudsman look at his complaint. He said Lloyds couldn't rely on what was said in the first call on that day – when a payment for £5,000 was blocked. He said there should've been a further intervention when he made the payment of £20,000. The payment was allowed and should have been stopped.

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 sorry to hear that Mr B has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr B didn't intend for the money to go to a scammer, he is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, 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 make 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.

I need to decide whether Lloyds acted fairly and reasonably in its dealings with Mr B when he made the payments, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply in this case. That is because it applies to faster payments made to another UK beneficiary – and in this case, the payments were made to Mr B's own account with company C.

The first consideration here is: if the payment was of a sufficient size and was out of character with how Mr B normally used his account – then we would expect Lloyds to have intervened and spoken to him about it. I looked at Mr B's account, and it's fair to say that the payment was unusual compared to the way in which he used her account – which was to make day to day expenditures of low value.

Therefore, we would expect Lloyds to have intervened when he tried to make a high value payment to company C – which the bank did. Mr B tried to make a payment for £5,000 on 25 May 2021, and it was stopped by Lloyds. The bank spoke to him and I listened to the call.

On it, the following was said:

Lloyds: (said this twice) *"A lot is going on at the minute in regard to fraud and scams, an increase in investment scams such as cryptocurrency"*

Lloyds: *"fraudsters are asking you to set up an account and then giving themselves access to it and transferring money to scam investments"*

Lloyds: *"if this is a scam, we won't be able to get the money back"*.

Mr B – then asked about company C and was it OK?

Lloyds: (when asked for advice from Mr B) *"as long as you've set up the account (at company C) yourself and as long as you've not given access to it, then it should be fine – company C is a main account used for crypto transfers"*.

Mr B then asked about company A and did Lloyds know anything about them.

Lloyds: *"no I know nothing and have never heard of them. Always do your own research, check it out, check companies house and the FCA website"*.

While on the call, Mr B checked companies house – and he said company A was registered.

Lloyds call handler then gave Mr B instructions on how to search the FCA's register and while on the call, helped him navigate to it.

I heard Mr B look at the FCA register while on the call – and Mr B then said there was nothing showing for company A on the register.

Lloyds: *"if it isn't on the FCA's register there's nothing we can do, nothing the FCA or Financial Ombudsman Service can do"*.

Lloyds: *"read through all the FCA information – where you can see advice on investments. Make sure all is OK before you transfer large amounts of money"*.

I considered this call – and I'm satisfied Lloyds did all they could to warn Mr B about the payment he was making and the further work he should do beforehand.

The payment of £5,000 was not released on this call.

But I can see he then went ahead with a payment of £20,000 later the same day. I looked the FCA register, and the investment company A isn't registered. So - if Mr B could have seen this if he did conduct the research Lloyds recommended. But – he still went ahead and made the payment of £20,000.

Mr B has further argued that Lloyds should've intervened again in this next payment. I considered this – Lloyds told us the payment was allowed through as it was in favour of a known payee.

I've considered what would've happened had Lloyds stopped the payment. And I'm persuaded that Mr B would've gone ahead anyway. He had received some sensible and detailed guidance from Lloyds earlier the same day – and it's likely that, on balance, he would've have told Lloyds he had completed the research, thought about the conversation he had earlier with the bank and wanted to go ahead.

So, on the balance of evidence, I don't hold Lloyds as liable to refund any money to Mr B.

Recovery

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Lloyds took the necessary steps in contacting the bank that received the funds – in an effort to recover the money. I haven't seen any evidence that Lloyds did so.

But - the scam took place in 2021, and Mr B complained to Lloyds in October 2023 – normally in such scams, funds are removed from the recipient bank immediately.

And – as the funds went from the bank account to a crypto currency merchant (company C) and the loss occurred when crypto was then forwarded to the scammers. In this case, as the funds had already been forwarded on there wasn't likely to be anything to recover.

Mr B has lost a lot of money. He's explained why the money was important to him, the impact his losses have had, and at a very difficult time in his life. I was sorry to learn of his circumstances. He will therefore be disappointed by my decision, but I'm not going to ask Lloyds to do anything here.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 15 November 2024.

Martin Lord
Ombudsman