

The complaint

C, a limited company, complains that Lloyds Bank PLC ('Lloyds') hasn't refunded all the money it lost, after it was the victim of an authorised push payment ('APP') scam.

What happened

The circumstances of the complaint are well known to both parties. As a result, I don't intend to set these out in detail here. However, I'll provide a brief summary of what's happened.

In February 2023, an employee of C – whom I'll refer to as "*Miss A*" – received a call from a third party ('the scammer'), who claimed to be a senior fraud investigator at Lloyds. The scammer said C's business bank account had been compromised and to prevent funds being stolen, Miss A needed to make various transactions on behalf of C.

The scammer told Miss A that Lloyds staff were suspected of being involved in attempting to defraud C. So, Miss A was told not to discuss the situation with anyone – including C's directors. Miss A followed the scammer's instructions and made the following payments:

Payment	Date	Time	Amount
1	21/02/2023	14:39	£25,000
2	21/02/2023	15:02	£25,000
3	21/02/2023	15:30	£25,000
4	21/02/2023	15:52	£24,323.59
5	21/02/2023	16:17	£48,970
6	22/02/2023	09:09	£25,000
Total sent			£173,293.59

After payment six, the scammer asked Miss A to make a further payment, but Miss A refused. The scammer then spoke to one of C's directors – whom I'll refer to as "*Mr M*". Mr M identified that he was speaking to a scammer and no further scam payments were made.

C reported the scam to Lloyds on 23 February 2023. Lloyds reached out to the beneficiary firms the same day and was able to recover £43,511.29, which included:

- £15,010.76 of payment one;
- full recovery of payment six (£25,000);
- £348.08, which couldn't be traced back to a specific payment; and
- £3,152.45, which also couldn't be traced back to a specific payment.

Lloyds didn't think payment one was so unusual, at the time the payment was made, that it should've done anything differently before approving the payment. As a result, Lloyds didn't think it was responsible for refunding the payment.

Lloyds initially reimbursed 50% of payments four and five, on the basis that it could've done more to prevent those payments being made. But Lloyds thought C should also share equal responsibility for the loss caused by those two payments. Unhappy with this outcome, C raised a complaint.

In its response to the complaint, Lloyds said it could've done more to prevent payments two and three as well. It maintained that C was also jointly responsible for the loss and offered to reimburse 50% of payments two and three. Lloyds also offered to pay 8% simple interest on the partial refund of payments two and three, along with £50 compensation for not partially refunding the payments earlier.

In total, Lloyds has offered to reimburse £61,646.80 along with recovering £43,511.29. This leaves an outstanding loss of £68,135.50.

Unhappy that Lloyds hasn't refunded all the money lost to the scam, C asked the Financial Ombudsman Service for help. Our Investigator didn't uphold the complaint. They didn't think payment one was suspicious and weren't persuaded Lloyds could fairly be held responsible for the loss caused by that payment.

Our Investigator also thought that Lloyds' offer to reimburse 50% of payments two to five was fair in the circumstances. They explained that if Miss A had followed C's usual process for making a payment, the scam could've been prevented, meaning C wasn't entitled to full reimbursement. Our Investigator also thought it was fair that Lloyds take equal responsibility for the loss from payment two onwards.

C didn't accept our Investigator's opinion and so the complaint has 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.

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 have been 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 (in this case, the 2017 regulations) and the terms and conditions of the customer's account.

Miss A had authority to make payments from C's account. It's not in dispute here that Miss A made the scam payments on behalf of C and authorised Lloyds to send the funds. So, under the Payment Services Regulations, the starting position here is that C is responsible for the payments (and the subsequent loss) despite the payments being made as the result of a scam.

However, a relevant consideration of this complaint is the Lending Standards Board Contingent Reimbursement Model ('CRM') Code, which was in place until 6 October 2024. The CRM Code required firms to reimburse customers who had been the victims of APP scams like this, in all but a limited number of circumstances.

The CRM Code states at R2(1):

“A Firm may choose not to reimburse a Customer if it can establish any of the following matters in (a) to (e). The assessment of whether these matters can be established should involve consideration of whether they would have had a material effect on preventing the APP scam that took place...”

(d) Where the Customer is a Micro-enterprise or Charity, it did not follow its own internal procedures for approval of payments, and those procedures would have been effective in preventing the APP scam.”

C is a micro-enterprise, and it had an internal procedure for approving payments, whereby payments required prior approval from a director before being made. Miss A made the scam payments, but she isn't a director of C. At the time of the scam, C had two directors and one of them ought to have been consulted before the payments were made. So, I'm satisfied that C's own internal procedure for approving payments wasn't followed in the circumstances.

The scammer said a third party had been trying to make a withdrawal from C's account in a Lloyds branch in Manchester and that Lloyds had suspicions that the third party had been waiting for a particular cashier in the branch. As a result, there was an ongoing internal investigation into Lloyds' employees, which meant Miss A couldn't speak to anyone about the situation – including the directors of C.

I appreciate Miss A was told by the scammer that she couldn't tell anyone about the situation and that this was because of an internal investigation into Lloyds' employees. However, it's unclear how Miss A informing one of C's directors about the issue could have compromised Lloyds' alleged investigation into fraudsters.

Furthermore, it doesn't seem plausible that a senior fraud investigator would request to speak to Miss A, who wasn't a customer of Lloyds, rather than asking to speak to one of its customer's directors. Given it was allegedly C's funds that were at risk, it would've been more appropriate for one of C's directors to have been contacted about the issue and that telling Miss A not to discuss the situation with the company's directors was highly suspicious.

C had an internal procedure in place for making payments, which should've been followed in the circumstances. There was no reasonable explanation for deviating from that procedure and so I've thought about whether the correct procedure would've stopped the scam.

Once a director (Mr M) was consulted, the scam was quickly identified, and no further scam payments were made. So, I'm persuaded that if the internal procedure had been followed here, it would've been effective in preventing the scam from succeeding. It follows therefore that one of the exceptions to reimbursement under the CRM Code has been established and C isn't entitled to full reimbursement of any of the payments.

Whilst I've established that Miss A didn't follow C's internal procedure for approving payments, I also need to consider whether Lloyds met its expectations under the CRM Code.

The CRM Code, at SF1(2), says:

“Where Firms identify APP scam risks in a Payment Journey, they should take reasonable steps to provide their Customers with Effective Warnings, which should include appropriate actions for those Customers to take to protect themselves from APP scams.”

Our Investigator didn't think payment one was so unusual that it demonstrated a fraud risk at the time the payment was made. They explained that whilst the payment was a substantial amount (£25,000), it didn't significantly reduce C's account balance. Furthermore, our Investigator was able to identify C had made six large faster payments (all exceeding £10,000) in the 12-month period prior to the scam. Given the previous account and payments activity, our Investigator didn't think payment one was so suspicious that Lloyds reasonably ought to have been concerned by it, meaning it wasn't required to provide an effective warning under the CRM Code.

I accept C did regularly make faster payments, some of which were for large values, in the previous 12 months – including two payments for larger amounts than payment one. However, those large payments appear to have been sent to existing beneficiaries, which C had paid and, in some cases, received payments from. Payment one was for £25,000 and sent to a new payee. I don't think a payment of this size going to a new payee was in keeping with the typical account and payments activity. As a result, I think payment one demonstrated a fraud risk to Lloyds when it was made – and as a result, Lloyds reasonably ought to have provided an effective warning under the principles of the CRM Code.

Lloyds did provide a warning for the payment. However, this focused on invoice interception scams and therefore wasn't relevant in the circumstances. Miss A wasn't required to select a payment purpose or answer any questions about the payment to help Lloyds understand the purpose and provide relevant scam education. As a result, I'm not satisfied Lloyds provided an effective warning under the principles of the CRM Code.

However, I have to consider whether, if Lloyds had done what I'd have expected it to do, it would've had a material impact on preventing the scam from taking place.

I'm not persuaded that an effective warning for the purposes of the CRM Code, or even some form of human intervention from Lloyds, would, on balance, have prevented Miss A going ahead with the payment. I say this because Miss A was being coached by the scammer, who gave advice on what to say if challenged by Lloyds. This is evident from payment six, which required a phone call between Miss A and Lloyds, followed by a branch visit. On the scammer's advice, Miss A said she was paying an invoice, which had been approved and handed to her in person by a director of C. The scammer then provided a fake invoice to Miss A, which she took into branch to get payment six processed.

I think it's more likely than not, that even if Lloyds had been able to provide an effective warning about safe account scams when payment one was made, or if it had challenged her during a phone call or requested she attend branch to discuss the payment, that any proportionate steps Lloyds could've taken would've failed to break the scammer's spell and the payment would've been made regardless.

Whilst I'm satisfied Lloyds failed to meet its obligations under the CRM Code when payment one was made, I'm not persuaded that Lloyds' failure has had a material impact on preventing the scam. So, I'm satisfied that Lloyds didn't need to reimburse any of C's loss caused by payment one.

Lloyds has already accepted it didn't meet its expectations under the CRM Code for payments two to five and has offered to reimburse 50% of those payments (with payment six being recovered in full requiring no reimbursement). Where the customer and firm have both made mistakes, which contributed towards a loss, the CRM Code says that responsibility for the loss should be shared equally – i.e., the firm should reimburse 50% of the loss.

I'm satisfied that by offering to reimburse 50% of the loss from payments two to five, Lloyds has applied the principles of the CRM Code fairly. In fact, Lloyds could have deducted the recovered funds from payments two to five, before calculating 50% of the loss, but it didn't choose to do this. So, Lloyds has actually offered to reimburse *more* than it needed to, and it isn't required to reimburse any more of C's loss.

Once it was aware of the scam, Lloyds did reach out to the two beneficiary firms, in an attempt to recover C's funds. Unfortunately, whilst a significant amount of money was returned, the beneficiary firms confirmed that a majority of C's funds had already been withdrawn when the scam was reported to Lloyds. I've checked Lloyds' internal records and I'm satisfied that Lloyds attempted recovery within the timeframe I'd expect and therefore, I think it did what it could to recover C's lost funds.

It's clear that the scam has impacted C financially and that it will have had an adverse effect on Miss A and Mr M, not helped by Lloyds failing to reimburse 50% of payments two and three when the scam was reported. Lloyds offered £50 compensation for this error. In the circumstances, I think that offer fairly reflects the inconvenience suffered by C's directors.

When Lloyds offered to reimburse 50% of payments two and three, it acknowledged that this should've happened earlier. So, to compensate C for being deprived of the use of the funds, Lloyds offered to pay 8% simple interest on the additionally reimbursed funds. That approach is consistent with what I'd expect it to do in the circumstances.

I've seen evidence to confirm that Lloyds has already reimbursed 50% of payments four and five and returned payment six which was recovered in full. If it hasn't already done so, Lloyds should return the remaining funds it was able to recover (£15,010.76, £348.08 and £3,152.45), along with paying the offer it made in its final response letter – namely to refund 50% of payments two and three, including 8% simple interest and pay £50 compensation. However, I'm not persuaded Lloyds needs to do anything further to resolve this complaint.

My final decision

I appreciate C has lost a significant amount of money to a cruel scam, orchestrated by someone Miss A thought she could trust. Whilst I'm sympathetic to all those people affected by C's loss, for the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask C to accept or reject my decision before 31 March 2025.

Liam Davies
Ombudsman