

## The complaint

Miss H is unhappy that Lloyds Bank PLC (“Lloyds”) has not refunded all of the money she lost after she fell victim to an Authorised Push Payment (“APP”) scam.

## What happened

I issued my provisional decision on this complaint on 20 March 2024. The background and circumstances of the case and the reasons why I was minded to uphold the complaint in part were set out in that decision. I have reproduced the provisional decision in italics below:

*The background to this complaint is well known to both parties and has been laid out in detail by our Investigator in their view. So I won't cover everything again here, but in summary I understand it to be as follows.*

*In July 2021, Miss H met someone (who I will refer to as “A”) through an online dating site. Within a few weeks the conversation moved to A asking Miss H if she would buy some gift cards, that he said he wanted for some charity work. Miss H has said she didn't end up buying these. Shortly after, A asked Miss H to lend him some money. He told her he'd secured work on a project abroad, but his bank account had been temporarily blocked and he needed funds to arrange for paperwork to be drawn up, so that his bank would unfreeze his account.*

*Miss H has said at first she told him that she couldn't help, but that she gave in and agreed to loan him the money. A continued to ask Miss H for money, for a variety of different reasons, and between 26 August 2021 and 21 October 2021 she made ten payments as requested by A, to three different payees, totalling £34,380.*

*But unknown to Miss H at the time, A was a fraudster and she'd sent her money to accounts fraudsters controlled. Miss H realised she'd been scammed when contact with A (and his associates) was lost.*

*Miss H raised the matter with Lloyds in July 2023 and it looked into her claim. Lloyds is a signatory of the Lending Standards Board Contingent Reimbursement Model CRM Code (the “CRM Code”). The CRM Code requires firms to reimburse customers who have been the victims of APP scams in all but a limited number of circumstances. Lloyds looked into Miss H's complaint and issued its final response in August 2023, upholding it in part.*

*In summary, it said it did not do enough to highlight the initial high value payment Miss H had made, but it thought she could have done more to check the legitimacy of the person she was speaking to and the reasons behind the payments. Based on this, it agreed to refund half of the faster payments Miss H had made, being £17,190.*

*Lloyds went on to explain that when Miss H reported the scam, it had tried to recover the money from the beneficiary banks (the banks to which the payments were made), but unfortunately it was unable to recover any of the money that had been lost.*

*Unhappy with Lloyds' response, Miss H brought her complaint to this service. One of our Investigator's looked into things and didn't recommend that Lloyds provide any further refund. In summary, he thought that Lloyds should have identified the first payment as unusual or suspicious and it should have contacted Miss H before allowing the payment to be progressed. But he wasn't persuaded that Miss H had carried out sufficient checks to satisfy herself that the person she was dealing with was genuine, so she should also bear some responsibility for her loss.*

*Miss H didn't agree with our Investigator's view, in summary she felt she was vulnerable and wasn't at fault. She thought the scam was well versed and convincing, and the bank should have done more.*

*As agreement couldn't be reached, the complaint has been passed to me for a final 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.*

*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.*

*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; regulatory 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 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. There's no dispute here that Miss H authorised the payments. So the relevant regulations (and the terms of her account) make her responsible for payments she's made herself in the first instance. However, where a customer makes a payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.*

*I can understand entirely why Miss H feels so strongly that this money should be returned to her. It's important to clearly acknowledge that it is not in dispute here that Miss H has been the victim of a cruel scam over a prolonged period of time. I can also understand how losing this money has impacted her, and I'm sorry to hear of the difficult time she's been going through.*

*But I can only compel Lloyds to refund Miss H if it is responsible for the loss incurred. Having carefully considered the circumstances of this complaint, I can see no basis on which I can fairly say that Lloyds should be held liable for the entirety of Miss H's loss here. I will explain why.*

*The starting principle of the CRM Code, that I mentioned earlier, is that a firm should reimburse a customer who is the victim of an APP fraud except in a small number of circumstances. The exceptions to reimbursement relevant to this case are:*

- The customer made the payment without 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.
- The customer ignored an effective warning in relation to the payment being made.

There are further exceptions within the CRM Code, but they do not apply in this case.

I am also mindful that when Miss H made these payments, Lloyds should fairly and reasonably also 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). And 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.

Did Lloyds meet its obligations under the CRM Code and did Miss H ignore an effective warning?

The CRM Code says that effective warnings should be risk based and, where possible, tailored to the APP scam risk indicators and any specific APP scam types identified through the user interface with which the customer is initiating the payment instructions.

Lloyds has already admitted it could have done more to protect Miss H before the first payment was made – as a result it agreed to refund Miss H half of the money she lost. Where Lloyds has accepted it could have done more to provide Miss H with an effective warning, there is no need for me to explore that point any further in this decision.

Suffice to say that I agree with Lloyds position here, in that it is, at least, partially responsible for refunding Miss H when considering this exception of the CRM code.

Did Miss H have a reasonable basis of belief or could she have done more to mitigate her losses?

Lloyds not providing an effective warning isn't, in and of itself, enough to say that Miss H should be refunded the full amount of her loss. When considering the principles of the CRM code, I need to consider whether it was reasonable for Miss H to send the money to the fraudsters. I've thought about the steps Miss H took to reassure herself about the legitimacy of the transactions and whether it was reasonable for her to proceed with the payments. Having done so, while I know it will come as a disappointment to Miss H, I am not persuaded that she had a reasonable basis for believing that the payee was the person she was expecting to pay, the payment was for genuine goods or services or the person she transacted with was legitimate.

This is not a finding I have made lightly, and I have considered that the scammer was able to build some trust and rapport with Miss H. However, there were several indications that she ought to have recognised that she wasn't dealing with a legitimate person. I say this because:

- Miss H had never met A in person and has said that he only wanted to communicate over a social messaging platform. She's said she realised A didn't make normal phone calls or send messages and that when she'd tried calling it never went

*through. I think this should have given Miss H some cause for concern, when A started to ask her to lend him significant sums of money.*

- *Alongside this, Miss H has said when attempts were made to arrange to meet, A would make excuses. Furthermore, when Miss H asked to send new pictures, she was told he hardly ever takes pictures as his camera was broken. I think Miss H should reasonably have been more alert to the possibility that what was happening here represented a heightened risk to her.*
- *In the circumstances of this case, it seems that Miss H had her own doubts. She's said she was wary of some of the language A used early on, but tried not to over think this. It also appears that Miss H declined, on at least two occasions, to give A the money he had asked for (when she was asked to buy gift vouchers and when she was first asked to make a payment of £8,000 to help with A's business venture).*
- *Miss H has ultimately placed a lot of trust in a stranger who she had never met. I consider that Miss H ought to have had greater concerns and that, in turn, ought to have led to a greater degree of scrutiny on her part. Sending money to someone you haven't met in person was always a risk.*
- *I'm mindful that the nature of these scams can make victims take actions, that in the cold light of day, they may not usually take. But from what I've seen here Miss H has had time to reflect on what was being asked of her. I say that as I can see, as I've mentioned, she did decline earlier requests for money. So she wasn't, in my view, under immediate pressure to proceed with the various payments.*
- *I'm mindful that Miss H was provided with some documents (including building sketches/plans and a certificate that supposedly demonstrated work being awarded). I'm also mindful that Miss H was sent an image of a cheque and bank screen by the fraudster, to demonstrate A had funds in account and money being received for the work contract. But, given this was seemingly a multimillion-pound contract, that A was working on, I think it's questionable why a person who was legitimately working in business, on such a large-scale project, would not have contingency in place and to question the plausibility of them needing to rely on a stranger they'd never met to fund expenses.*
- *Alongside this, Miss H has said A asked her to speak to his lawyer. She's said she became very concerned at this point and she initially refused, but she then started receiving messages and a video clip from the 'lawyer' asking for money. I think this ought to have seemed like an unusual request from the fraudster. I don't think somebody who was genuinely in business would ask a lawyer to engage in business related matters with a person they'd only recently met online and never met in person.*
- *As the scam evolved, I think there were further situations that ought to have alerted Miss H to the possibility that things may not have been as they first seemed. In particular, A told Miss H he was in hospital – but when Miss H contacted the hospital, where A has said he was, the hospital was able to confirm to Miss H that they had no patient of that name.*

*It's arguable that any one of the above factors, in isolation, may not have been enough to alert Miss H to the potential risk. But overall, when taken collectively, I think there was enough going on to have raised significant concerns about the transactions Miss H was making from the start. And this ought reasonably to have led her to take a more cautious approach than she did. It follows that I don't find she had a reasonable basis for believing the*

*people she was paying were legitimate. So, I think Lloyds has correctly identified that this exception to reimbursement under the CRM Code applies.*

*My intention is not to further Miss H's distress where she's already been the victim of a cruel fraud. But merely to highlight that I do find Lloyds has been able to demonstrate that she could have done more to verify the validity of the person she was communicating with and the proposals they were making.*

#### *Vulnerability under the CRM code*

*There are provisions under the code which might lead to a refund, even when a customer doesn't have a reasonable basis for belief. The relevant part of the Code says: A Customer is vulnerable to APP scams if it would not be reasonable to expect that Customer to have protected themselves, at the time of becoming victim of an APP scam, against that particular APP scam, to the extent of the impact they suffered. This should be assessed on a case-by-case basis.*

*I'm sorry to hear of the difficult circumstances that Miss H found herself in, particularly that her mother had sadly passed away a year prior to the scam. I've no doubt that she has been through a lot and I don't doubt that her mental health has suffered as a result. And no doubt the scam has impacted her further.*

*But I've considered whether there were vulnerabilities present at the time to such an extent that Miss H was unable to take steps to identify the scam she fell victim to or to recognise steps she might take to test the legitimacy of what she was being told by the fraudster. To do so I must consider the details of the scam, Miss H's actions throughout, and the wider circumstances of what was happening.*

*I don't doubt what Miss H has told us. But there is also evidence within the circumstances that suggests she was capable of taking steps to protect herself from fraud and financial harm. That is to say there was more she might reasonably have done that would have led to the scam being uncovered.*

*The evidence indicates she was in full control of her finances, indeed she initially declined to help A when he had first asked her to lend him money. Having thought very carefully about everything Miss H has told us, I'm not persuaded that it would be unreasonable to expect her to have protected herself against the particular scam she fell victim to. And so, on balance, I don't find that Lloyds need refund Miss H's entire loss under the vulnerability clause of the code.*

#### *Did Lloyds do enough to recover Miss H's funds?*

*Finally, I've thought about whether Lloyds took reasonable steps to recover Miss H's funds once it was made aware she was the victim of a scam. From what I can see Lloyds contacted the beneficiary banks, but were unable to recover any of the money lost. Sadly, this is not unusual as scammers usually remove funds soon after payments have been made and I'm mindful here that almost two years had passed between the last payment made to the fraudsters and Miss H reporting the matter to Lloyds. So I don't think Lloyds could have done anymore to recover Miss H's funds.*

#### *My provisional decision*

*For the reasons explained, my provisional decision is that I don't uphold this complaint against Lloyds Bank PLC.*

In my provisional decision I asked both parties to send me any further evidence or arguments that they wanted me to consider by 20 March 2024.

Lloyds didn't provide any further comment. But Miss H disagreed with my provisional assessment of the complaint. In summary she:

- Believes that as Lloyds has admitted it could have done more, it should take full responsibility and reimburse all the money that was lost.
- Has said the account holders (for the beneficiary accounts) were not vetted and Lloyds did not check the other banks policies in order to protect her. She doesn't believe she should be responsible for what she considers Lloyds and the beneficiary banks negligence.
- She reiterated her position explaining that the scam was well versed and planned.
- Said that the fraudster took advantage of her with threatening behaviour.
- She's said she was put under pressure and contacted by three potential scammers, who were making up stories and guilt tripping her. And that she was given well versed reasons not to doubt what she was being told and she was only thinking of helping a person due to her good nature.

Alongside this, Miss H also questioned why the provisional decision was sent to Lloyds before allowing her to read the response.

### **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 thank Miss H for taking the time to respond to my provisional decision so comprehensively. I won't be responding to every point that she has made. But as I've mentioned previously, no discourtesy is intended by this. I've focused 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 can assure Miss H that in reaching my decision I've considered all of the points she has raised, but 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 carefully considered Miss H's additional comments. But, while I know this will be disappointing for Miss H, I'm not persuaded to depart from the conclusions I set out in my provisional decision.

Miss H has raised some complaint points that relate to the receiving banks (the banks to which the payment were made), which were not Lloyds. At the outset, I should make it clear that this decision solely focuses on Lloyds, in its capacity as the sending bank. Lloyds has no influence on accounts held with other providers. If Miss H would like to pursue her concerns about the receiving banks, the first port of call with this would be to raise those concerns with the receiving banks to enable them to consider things.

I note that Miss H has said the Financial Ombudsman Service are here to retrieve her money, which she has lost as an innocent victim. However, I should make it clear that this service is impartial between, and independent from, consumers and businesses. What this means is that we don't represent either party, and I don't act under either's instructions or take directions on how a complaint will be looked at or what questions should be asked or answered.

In respect of my provisional decision – this was sent to both Lloyds and Miss H at the same

time. This is to ensure that both parties involved had the opportunity to provide any further submissions and arguments to me, before I issued my final decision.

It is not in dispute here that Lloyds could have done more than it did at the point Miss H made these payments, Lloyds has acknowledged this and, as I mentioned in my provisional decision, I agree with its position here. I think the payments were such that I would reasonably have expected it to have done more than it did to protect Miss H from the risk of financial harm. However, just because Lloyds could have done more it doesn't automatically follow, for reasons already explained, that it should be held liable for the full amount of money Miss H sadly lost. I also have to consider, in all of the circumstances of the case, whether, on balance, it was reasonable for Miss H to make the payments she did.

While I know it will be disappointing for Miss H and I don't underestimate her strength of feeling, having considered everything carefully I don't think she did and I'm persuaded that the fair and reasonable outcome on this case is for the liability to be shared.

I've thought carefully about what Miss H has said, in that the fraudster displayed threatening behaviour, the scam was well versed and she's told us why she was persuaded by what the fraudsters were telling her. But my position on this hasn't changed, I do acknowledge that there were elements of the scam that could have seemed convincing and I do understand that these scams succeed through manipulation and coercion. However, in the individual circumstances of this case, I do think that, all told, there were enough warning signs, which I have covered earlier in this decision, that ought reasonably to have led Miss H to proceed with more caution than she did.

In situations such as this and when considering the CRM code, where I think both parties could have done more – the fair and reasonable outcome is for both parties to share the responsibility.

So, I see no reason to depart from the conclusions set out in my provisional decision. I have concluded that for reasons explained here and in my provisional decision, the fair and reasonable outcome, in all the circumstances is to not ask Lloyds to do any more than it has already done.

In saying the above, I am extremely sorry to hear about what has happened to Miss H here, and the extent of the impact that the fraudsters actions have had on her. She was the victim of a cruel and callous scam, that was designed to defraud her of her money. But despite my natural sympathy for Miss H, I can't fairly or reasonably ask Lloyds to refund the remainder of the money that was stolen from her.

### **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 Miss H to accept or reject my decision before 24 July 2024.

Stephen Wise  
**Ombudsman**