

The complaint

Mr L complains that Clydesdale Bank Plc trading as Virgin Money (Clydesdale) is refusing to refund him the amount he lost as the result of a scam.

Mr L is being represented by a third party. To keep things simple, I will refer to Mr L throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mr L tells us his girlfriend was investing in cryptocurrency with an investment company I will call X, although Mr L's girlfriend had not yet made a withdrawal from her investment account, she appeared to be making a good return.

Mr L says he searched X online and was able to find positive reviews, so he decided to open an account with X himself. Mr L was then assigned an account manager who carried out trades on his behalf and provided professional training.

As X appeared to be a legitimate investment company and Mr L appeared to be seeing good returns, he continued to make investments with it. However, Mr L's girlfriend then told him that she had attempted to make withdrawals from her investment account without success.

Mr L then searched X again online but this time found negative reviews and realised he had fallen victim to a scam.

Mr L made the following payments in relation to the scam from his account with Clydesdale:

<u>Payment</u>	<u>Date</u>	<u>Payee</u>	<u>Payment Method</u>	<u>Amount</u>
1	27 March 2023	Mr L Monzo	Transfer	£10,000
2	21 April 2023	Mr L Monzo	Transfer	£22,500
3	3 May 2023	Mr L Monzo	Transfer	£1,000
4	4 May 2023	Mr L Monzo	Transfer	£4,000

Our Investigator considered Mr L's complaint and didn't think it should be upheld, Mr L disagreed, so this 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.

It has not been disputed that Mr L has fallen victim to a cruel scam. The evidence provided by both Mr L and Clydesdale sets out what happened. What is in dispute is whether Clydesdale should refund the money Mr L lost due to the scam.

Could Clydesdale have done anything to recover Mr L's money?

The payments Mr L made in relation to the scam were made by transfer to an account held in his name with another provider. When payments are made via the method of transfer Clydesdale has limited recovery options available. Clydesdale could have contacted the operator of the receiving account and asked for a refund of any funds that remained. But that account was held in Mr L's own name, and he has confirmed these funds were moved on in relation to the scam, so no funds would remain to be recovered. Even if funds did remain in that account, they would remain within Mr L's control.

So, I don't think Clydesdale had any reasonable options available to it to recover the payments Mr L made.

Should Clydesdale have reasonably prevented the payments Mr L made?

It has been accepted that Mr L authorised the payments that were made from his account with Clydesdale, albeit on X's instruction. So, the starting point here is that Mr L is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Clydesdale should have been aware of the scam and intervened when Mr L made the payments. And if it had intervened, would it have been able to prevent the scam taking place.

Clydesdale has confirmed that when Mr L made the payments from his account, he selected the reason for the payments as "moving funds to another of his accounts". As Mr L was making the payments to an account he held elsewhere, before moving them on in relation to the scam I don't think this answer was completely unreasonable. Although there was an option Mr L could have selected for "investing".

As Mr L selected the option stated above, he was provided with a written warning for the risks involved in moving funds from one of his accounts to another. This warning did not cover the circumstances of the scam he was experiencing.

Considering the value of the payments Mr L was making from his Clydesdale account I think it would be reasonable to say that Clydesdale should have intervened as early as payment 1. But I don't think this would have made a difference. I will explain why.

When Mr L moved his funds from his Clydesdale account to another account in his name, he then moved them again to purchase cryptocurrency that was used in relation to the scam. When he did this the provider of the other account did intervene via a chat facility and via telephone. I have read the chat transcripts and listened to recordings of the calls that took place.

It's clear from that Mr L felt that the questions that were asked were invasive and when he was questioned about the payments he confirmed:

- He had been investing with X for more than two years
- He had faced no issues sending money in or out
- He had been able to withdraw more than he had put in
- He had invested roughly half of the money he had sent with X and the rest in something else

- He was able to withdraw funds both to his crypto wallet and to his bank, and had done both

Mr L was also asked if he had checked the FCA register and was advised to, but Mr L confirmed he was happy with the payments he was making.

I'm not sure why Mr L was not honest when he was questioned about the payments, he was making but giving incorrect information like that Mr L provided would have made it extremely difficult to uncover the scam that was taking place.

I don't have enough to say that Mr L would have given any more honest answers had Clydesdale also intervened when he was making payments from his account with it. This again would have made it extremely difficult for Clydesdale to uncover the scam. So, I don't think Clydesdale missed an opportunity to uncover the scam and it is not responsible for his loss.

My final decision

I don't uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 14 February 2025.

Terry Woodham
Ombudsman