

DRN-4926085



## **The complaint**

Mr K complains that Lloyds Bank PLC (Lloyds) won't refund money he lost in a job scam.

## What happened

### *What Mr K says:*

Mr K got a message on WhatsApp offering him part time work. This could be done alongside his existing business. He researched the company and considered it to be legitimate – it was based in the USA.

The job was to complete 'tasks' – these were around 'data optimisation', whereby he boosted the appeal of apps in various stores. These apps were then said to become available to a wider pool of people and therefore sales would be increased.

As this resulted in increased sales in the apps' merchants, Mr K would earn commission. If he completed three sets of 40 tasks for five days, he could earn £250.

As Mr K completed sets of tasks, he had to make deposits to the platform from his various bank accounts. These were sent to Mr K's existing crypto wallet with a crypto exchange and from there to buy crypto currency to pay to the platform. Some payments were direct to the crypto exchange, and some were via his other banks. Mr K was asked to open an account with bank X. He was told the amounts would be repaid to him along with the commission he had earned.

The payments from Mr K's Lloyds account were:

Date	Payment	Amount
20 August 2023	Open banking payment to crypto exchange	£500
25 August 2023	Open banking payment to crypto exchange	£300
8 September 2023	Open banking payment to crypto exchange	£1,000
9 September 2023	Open banking payment to crypto exchange	£2,000
10 September 2023	Open banking payment to crypto exchange	£2,000
13 September 2023	Open banking payment to crypto exchange	£2,000
13 September 2023	Open banking payment to crypto exchange	£1,000
13 September 2023	Open banking payment to crypto exchange	£2,500
14 September 2023	Open banking payment to crypto exchange	£3,000
15 September 2023	Open banking payment to crypto exchange	£2,000
23 September 2023	Open banking payment to crypto exchange	£2,000
9 October 2023	Open banking payment to crypto exchange	£1,500
9 October 2023	Payment returned	(£1,500)

10 October 2023	Debit card payment to crypto exchange	£85.50
<b>Total net payments from Lloyds</b>		<b>£18,386</b>

But when it came to making withdrawals, Mr K was asked to pay money for tax, money laundering fees and other withdrawal fees. He was desperate to get his money back, so paid a number of these demands. He took out two loans for £25,000 and £10,000 from his other banks to fund some of the payments.

No money was sent back to him. The scammers then stopped all contact.

As a result of the scam, Mr K has lost most of his savings, and now has two large loans to pay back over the next five years. This is a constant reminder to him of what happened. He suffers from a lack of sleep and stress. He's lost a lot of weight. He is struggling to support his family and school-age children.

Mr K says Lloyds should've done more to protect him. There was no effective intervention or warnings given. He says Lloyds should refund the money he's lost plus interest at 8% per annum and compensation of £300. He also says Lloyds should reimburse his legal fees.

There were four banks involved in the scam –Lloyds, bank X (an online bank), bank A (a 'high street' bank) and bank Z (a 'high street' bank). Complaints about all banks have been brought to this service.

*What Lloyds said:*

Lloyds didn't uphold Mr K's complaint and said:

- The Contingent Reimbursement Model (CRM) code didn't apply.
- Mr K didn't carry out enough due diligence – he didn't check out the individuals concerned; he made payments to earn money, which didn't make sense; and there wasn't a contract of employment.
- The payments were sent to an account in Mr K's name.
- Lloyds intervened on 12 August 2023 and 15 August 2023 and was referred to a branch. Mr K wasn't honest in his answers – he said he hadn't been guided and everything was being done on his own will. Because Mr K wasn't honest with the bank, Lloyds couldn't protect him from the scam.

*Our investigation so far:*

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

- Lloyds stopped some payments and spoke to Mr K.
- On the call with Mr K on 12 August 2023, Mr K wasn't truthful with Lloyds. He said he'd opened an account with bank X (to which firm the payment was being made) for investment.

- He was evasive about why he had opened an account with bank X and was referred to a branch - as the call handler was concerned.
- On the call on 15 August 2023 (when Mr K was in a branch), he said he wanted to open an account with bank X to make payments to his sister in Germany – this wasn't truthful.
- On a further call on 15 August 2023, Mr K said he wasn't given a story by a scammer or told to be dishonest with the bank. Mr K was frustrated with the bank's interventions.

Because Mr K wasn't honest about the payments, she said Lloyds couldn't be held liable for the payments he made – the bank couldn't be expected to protect Mr K because of that.

Mr K didn't agree and asked that an ombudsman look at his complaint, and so it has come to me.

### **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 K 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 K 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 K 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 an account in Mr K's name (his crypto wallet.)

The first consideration here is: if the payments were of a sufficient size and were out of character with how Mr K normally used his account – then we would expect Lloyds to have intervened and spoken to him.

In this respect, the payments were unusual compared to Mr K's normal account activity. I can see he made some irregular large payments of up to £1,000 in the months before the scam. But on balance, the scam payments were unusual enough for Lloyds to intervene – which they did.

I listened to the calls between Lloyds and Mr K.

*Call – 12 August 2023: payment £20:*

Lloyds stopped this payment which was in favour of bank X.

*Lloyds call handler: were you asked to set up this account by someone?* Mr K: no.

*Lloyds call handler: What will you be using it for?* Mr K: transferring money.

*Lloyds call handler: To who?* Mr K: don't know yet.

*Lloyds call handler: So why open an account if you don't know who you will send money to?*

Mr K: someone asked me to open it.

*Lloyds call handler: Who? So someone did ask you to open it? Have you been asked to set up this account by someone? Have you been asked by someone to open this account?*

Mr K: yes, by someone I know. Someone recommended it.

*Lloyds call handler: Please be more specific – I deal with fraud.* Mr K: a friend said to open an account with bank X....to make a payment to a currency exchange.

*Lloyds call handler* then says she wasn't comfortable. She said: 'I'm not confident you know what you're dealing with' and 'you won't believe how many customers have been asked by someone to open accounts with bank X to start moving money'. And Mr K's account was blocked. He was asked to go to a branch with ID.

*Call – 15 August 2023: payment £5,000:*

Mr K then tried to make a payment for £5,000 to his account at bank X. It was stopped and Mr K went to a branch as he'd been asked to do. He called from the branch and told Lloyds' fraud advisor that the money was to be used to be sent to his sister in Germany.

*Call – 15 August 2023: payment £5,000:*

This further payment was also stopped. Mr K called Lloyds again. He was frustrated and said to Lloyds 'this is unacceptable' and 'this is not right' and 'is every payment going to be stopped from now on?'

*Lloyds call handler then asked: what is the reason for the transfer?* Mr K: 'I want it in my other account' and 'I know everything...yes (you are) trying to prevent fraud'. Mr K said he hadn't been asked to make the payment by someone else, or to give a cover story.

As regards the calls with Lloyds – I consider Mr K wasn't honest about the reasons for the payments, or the reasons for opening an account with bank X - and was evasive in his answers. So – it wasn't possible for Lloyds to protect Mr K from the scam.

I further listened to a call Mr K had with bank A – which had stopped a payment for £5,000 to bank X:

*Bank A's call handler: Why are you making this payment?* Mr K: investment.

*Bank A's call handler: What kind of platform are you investing in?* Mr K: (crypto exchange name).

*Bank A's call handler: Is it your account?* Mr K: yes

*Bank A's call handler: I am now going to go through a scam chat to make you aware of scams. It's important you are honest with us in this conversation so we can protect you...if this is part of a scam, it is unlikely there will be any chance of getting your money back. Criminals can be convincing and ask customers to mislead the bank to avoid detection. If anyone has told you to lie or mislead it will be a scam. This includes giving a different payment reason.*

*Bank A's call handler: Has anyone asked you to lie or mislead?* Mr K: no.

*Bank A's call handler: You shouldn't go ahead if you found this (contact) via social media, have you invested before?* Mr K: no worries.

*Bank A's call handler: It could be a scam if the returns are too good to be true....if this is a scam you won't be able to recover your money.* Mr K – confirmed he wanted to go ahead and the payment was released.

I carefully considered all of these calls in the context of Mr K's complaint. And I think they show:

- Mr K was evasive as to the purpose of the payments being made. He gave different stories to each call handler/bank. So, it wasn't possible for any bank to give him a tailored warning about the job scam taking place; or to protect him.
- He was warned about not telling the truth.
- He was warned that if the payments were a scam, the money couldn't be recovered.
- He didn't disclose the involvement of a third party – the scammers.
- He was given several warnings about the activities of scammers.
- He said he hadn't been asked to open an account with bank X – when he had been so.

I also looked at the WhatsApp chats between Mr K and the scammer – and it's fair to say that he was desperate to get the scammer to pay him the money back. And he thought the only way he could make that happen was to meet their demands for more money– there were several apparent promises made that this would be the 'last time' and his money would then be paid back to him – but it wasn't.

So, I consider that given that Mr K wasn't honest with Lloyds (or with bank A), any intervention wasn't going to make a difference – he was convinced he had to pay the money to the scammers.

*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 lost money.

And here, the funds went from the bank account to a crypto currency merchant and the loss occurred when crypto was then forwarded to the scammers. In this case, as the funds had already been forwarded on in the form of cryptocurrency there wasn't likely to be anything to recover. That said, Lloyds told us they tried to recover money – but without any success.

Mr K has lost a lot of money. He's explained why the money was important to him, and the impact his losses have had. 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 K to accept or reject my decision before 1 January 2025.

Martin Lord  
**Ombudsman**