

The complaint

Mr E has complained Lloyds Bank PLC won't refund several payments he says he made and lost to a scam.

What happened

The background to this complaint is well known to both parties, so I won't repeat it in detail here. In summary, Mr E fell victim to an investment scam. He made numerous transfers between July 2021 and June 2022 to a cryptocurrency exchange, that I will call 'P', before forwarding his funds to the fraudsters. Mr E believed he was sending funds to a credible investment firm, that I will call 'M'. He spent time researching M's website, completing an enquiry form and then having a conversation with them over the telephone. However, Mr E subsequently uncovered the investment was a scam after he was unable to withdraw his funds and M cut all contact with him.

The relevant transaction history from Mr E's Lloyds account statements are as follows:

Transaction	Date	Type of Transaction	Amount
1	1 July 2021	Faster payment to P	£5.00
2	5 July 2021	Faster payment to P	£700.00
3	5 July 2021	Faster payment to P	£7,000.00
4	6 July 2021	Faster payment to P	£18,000.00
5	14 July 2021	Faster payment to P	£20,000.00
6	16 July 2021	Faster payment to P	£9,000.00
7	20 July 2021	Faster payment to P	£7,500.00
8	22 July 2021	Faster payment to P	£18,200.00
9	29 July 2021	Faster payment to P	£21,500.00
10	5 August 2021	Faster payment to P	£20,000.00
11	13 August 2021	Faster payment to P	£2,000.00
12	16 August 2021	Faster payment to P	£10,000.00
13	31 August 2021	Faster payment to P	£5,720.00
14	24 September 2021	Faster payment to P	£5,350.00
15	22 December 2021	Faster payment to P	£20,500.00
16	23 December 2021	Faster payment to P	£2,150.00
17	24 January 2022	Faster payment to P	£14,000.00
18	25 January 2022	Faster payment to P	£6,000.00
19	9 February 2022	Faster payment to P	£25,000.00
20	10 February 2022	Faster payment to P	£3,470.00
21	11 February 2022	Faster payment to P	£20,500.00
	15 February 2022	Faster payment from P	£238.47
22	16 May 2022	Faster payment to P	£250
23	30 May 2022	Faster payment to P	£1,000.00
24	27 June 2022	Faster payment to P	£5,500.00
25	27 June 2022	Faster payment to P	£200.00
26	27 June 2022	Faster payment to P	£50.00

Lloyds didn't reimburse Mr E's lost funds and so he referred his complaint to us. Our Investigator looked into things but didn't recommend the complaint be upheld. They weren't persuaded, on balance, that Lloyds could have prevented Mr E from falling victim to the scam. As our Investigator couldn't resolve the matter informally, the case has been passed to me for a final decision.

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 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'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 don't doubt Mr E has been the victim of a scam here; he has lost a large sum of money and has my sympathy for this. However, just because a scam has occurred, it does not mean Mr E is automatically entitled to recompense by Lloyds. It would only be fair for me to tell Lloyds to reimburse Mr E for his loss (or a proportion of it) if: I thought Lloyds reasonably ought to have prevented all (or some of) the payments Mr E made, or Lloyds hindered the recovery of the payments Mr E made – whilst ultimately being satisfied that such an outcome was fair and reasonable for me to reach.

I've thought carefully about whether Lloyds treated Mr E fairly and reasonably in its dealings with him, when he made the payments and when he reported the scam, or whether it should have done more than it did. Having done so, I've decided to not uphold Mr E's complaint. I know this will come as a disappointment to Mr E and so I will explain below why I've reached the decision I have.

I have kept in mind that Mr E made the payments himself and the starting position is that Lloyds should follow its customer's instructions. So, under the Payment Services Regulations 2017 (PSR 2017) he is presumed liable for the loss in the first instance. I appreciate that Mr E did not intend for his money to ultimately go to fraudsters, but he did authorise these payments to take place. However, there are some situations when a bank should have had a closer look at the wider circumstances surrounding a transaction before allowing it to be made.

Considering the relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time - 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 payment service providers 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 decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

So, I've thought about whether the transactions should have highlighted to Lloyds that Mr E might be at a heightened risk of financial harm due to fraud or a scam.

I have kept in mind the payments were to a cryptocurrency provider, but that doesn't mean payments should automatically be treated as suspicious, particularly when there are no other concerning factors about the payments. Banks do have a lot more awareness around payments to cryptocurrency exchanges now, but we do need to bear in mind some of Mr E's payments were sent as far back as 2021.

I do not think the value of the first two payments Mr E made were remarkable enough to have caused Lloyds any concern. The payments were also not made in quick succession and occurred on different days. So, I'm not persuaded Lloyds reasonably ought to have been concerned about them.

Lloyds correctly intervened at payment 4 after it was flagged by Lloyds' fraud monitoring systems and Mr E had to discuss it with Lloyds before the payment could be released. Payment 15 was also flagged and required a telephone conversation before its release.

Mr E provided reassurances during these calls, confirming these were genuine transactions that he had consented to. The questions that Lloyds asked and the information they shared with Mr E in these calls was relevant based on the industry knowledge of such scams at the time. In the first call, dated 6 July 2021, Mr E was informed that most cryptocurrency scams involve contact from a third-party fraudster presenting themselves as a trader or broker. Lloyds warned Mr E that when funds are transferred to such a fraudster they will convert it to cryptocurrency, send it elsewhere and the funds will be lost. Although not asked directly if he was in contact with a broker, the information supplied to Mr E was similar enough to his circumstances that it should have alerted him to a potential scam. However, Mr E chose not to inform Lloyds of M and his continued contact with them. Instead, Mr E reassured Lloyds all was fine and wanted to proceed.

In the second call, dated 22 December 2021, more than 5 months after the first call, Mr E continued offering reassurance to Lloyds, confirming that he had completed such a transfer before. When questioned on whether the payment was for cryptocurrency with P, Mr E said it was not and was just using P as an intermediary to transfer it to an offshore fund that was doing well. When Lloyds asked Mr E whether anyone had advised him about this payment, such as online traders or brokers, he said it was all his own doing and had been using his account with P for more than six months. Mr E again avoided informing Lloyds he was in frequent contact with M and instead used the length of time he had been transferring to his account with P to reassure Lloyds further. Lloyds also informed Mr E in this call that cryptocurrency is high risk, not regulated and the funds could be lost. And despite being told Mr E may not get the funds back, whether the investment failed or if it turned out to be a scam, he wanted to proceed.

Mr E believes Lloyds should have probed further, but I don't agree. Lloyds' intervention must not amount to an interrogation and having reviewed the questions they were appropriate. I am satisfied enough information in these calls was brought to Mr E's attention overall to put him on notice that there was some risk of fraudulent activity. If Mr E had been more forthcoming with his answers Lloyds would likely have recognised he had fallen victim to a scam and stopped the payments. As per Mr E's testimony this was a sophisticated scam, with a counterfeit KYC process and personalised access to a fake trading platform. This no

doubt supported Mr E's belief in the legitimacy of the investment, which in turn clearly did impact his receptiveness to any warnings he received from Lloyds. I've also noted that there was a withdrawal late in the scam would've added to his confidence. So, overall I'm not persuaded that any follow up questions Lloyds could have asked in any call to Mr E would have uncovered the scam. It's most likely Mr E would have continued to provide Lloyds with credible answers that would have reassured it of any concerns it may have had.

I've considered that Mr E did inform Lloyds he was using P as an intermediary to transfer funds overseas. However, I'm not persuaded Mr E saying he was choosing to invest overseas means he was necessarily at risk of financial harm from fraud or a scam. People living in the UK are able to invest overseas and many do as a legitimate way of investing. I'm also mindful that there was not enough of a pattern formed here to suggest Mr E might be at a heightened risk of financial harm due to fraud or a scam. The transactions consisted of a varying amounts and happened over almost a 12-month period. Outside of the intervention that did happen, there wasn't enough of a pattern to say more intervention was needed. And if they had of spoken to him again, there's no evidence to suggest he would've answered the questions any differently.

Taking everything into account I don't think Lloyds could have prevented Mr E's loss.

Recovery

I have gone on to consider if Lloyds took reasonable steps to try and recover the funds. It's important to note he didn't instruct Lloyds to send the money directly to the scammers. Mr E completed the transfers to his own account with P. All the funds were then sent on to a wallet address provided by M. Lloyds would only ever have been able to attempt to recover the funds from his own account at P. If these funds had not already been transferred to M, they would be in Mr E's control to access as and when he chose. Therefore, I won't be asking Lloyds to do anything further.

The Contingent Reimbursement Model Code

Although Lloyds has signed up to the Contingent Reimbursement Model Code, the payments Mr E made from his Lloyds account aren't covered by the Code because he made the payments from his Lloyds account to his other account and not to another person. I cannot fairly and reasonably say that Lloyds should have to refund payments under the Code when it doesn't apply here.

So, in light of all of the above findings, there's no fair and reasonable basis under which I can ask Lloyds Bank PLC to reimburse Mr E's loss.

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 Mr E to accept or reject my decision before 8 April 2025.

Lawrence Keath
Ombudsman