

## **The complaint**

Mr R complains that Lloyds Bank PLC didn't do enough to protect him from the financial harm caused by an investment scam, or to help him recover the money once he'd reported the scam to it.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr R was approached on social media by someone who I'll refer to as "the scammer" who claimed to work for an investment company. The scammer communicated with him via Telegram and said he could make money by investing in cryptocurrency. The company was registered overseas and so couldn't be verified on Companies House, but the scammer provided company registration documents and company accounts, which reassured him the investment was genuine.

Mr R was encouraged to open an account on a trading platform which I'll refer to as "G" and to buy cryptocurrency before transferring it to an online wallet. On 17 July 2023, he transferred £10,000 from his Lloyds account to a cryptocurrency exchange company. He was alerted to the scam on 10 August 2023 when Lloyds blocked a payment for £5,600.

When he asked Lloyds to refund the money, it refused. It said that as Mr R had no previous experience of trading, it would have expected him to seek financial advice prior to depositing any funds. And that he'd believed he'd made a profit of over 7000%, which was unrealistic.

It said two attempted payments were stopped on 17 July 2023 and in the subsequent call, Mr R said no-one was assisting him or advising him. It cancelled the payment at Mr R's request, but he transferred £10,000 later the same day, despite having been warned about the risk of cryptocurrency scams.

Lloyds argued that it had tried to help Mr R and he was untruthful during the first call, which had stopped it from detecting the scam sooner. It said it was unable to raise a scam claim as the payments were sent to an account in Mr R's own name where he had lost control of the funds, so there no loss from Lloyds.

Mr R wasn't satisfied and so he complained to this service with the assistance of a representative. Responding to the complaint, Lloyds said it was unable to raise a claim under the Contingent Reimbursement model ("CRM") code, because Mr R had paid an account in his own name.

It said the payment wasn't unusual because Mr R regularly made high value faster payments from the account. Before he made the payment, he chose the payment category as 'move my money' and was warned 'if your money goes to the wrong account, we may not be able to recover it'.

There was also a fraud prevention call before the unsuccessful payment when he was warned: *'the other scam we are seeing is crypto investments, where customers are contacted by these online fraudsters posing as traders/investors or financial advisors. They will tell you that if you want to make a lot of money with a high unrealistic return rate, you can send the money to them, and they will invest it into crypto. So really sir, we want to make sure this is not the case. We want to make sure you're not going to fall victim to any scams'*.

Lloyds said Mr R wasn't honest during the call because he failed to tell it that other people were involved, and it's likely he'd have continued to be dishonest if it had intervened again. Our investigator issued three views, concluding that she didn't think the complaint should be upheld. She noted that during the call on 17 July 2023, Mr R was warned that victims of cryptocurrency investment scams are contacted by online fraudsters posing as financial advisors who promise unrealistic returns. She commented that Mr R had denied the existence of a third party and she was satisfied this denied Lloyds the opportunity to ask more probing questions and detect the scam.

She further explained that after the call, Mr R tried to make the transfer again, and as the block was removed from his account, the payment went through. She didn't think this payment was particularly unusual or suspicious because Mr R had made high value faster payments from the account including a payment of £7,500 on 8 August 2022, £10,000 in February 2023, £25,000 on 6 February 2023, £85,000 on 9 May 2023 and £24,750 on 12 July 2023. So, she didn't think Lloyds had missed an opportunity to intervene.

Mr R disputed that he'd made or received a call with Lloyds on 17 July 2023, suggesting the call took place on 8 August 2023. But our investigator was satisfied the call probably took place on 17 July 2023. She noted the internet banking log showed there were two payment attempts of £10,000 on 17 July 2023, only one of which was successful. Further, Lloyds' records showed it had received a call from Mr R at 9.53pm and the call lasted 4 minutes and 44 seconds. Mr R was then transferred to another team at 9.56pm and the call lasted 12 minutes and 19 seconds.

Our investigator also explained that even if the call didn't happen on 17 July 2023, the call recording was evidence that Mr R would have denied Lloyds the opportunity to uncover the scam if it had contacted him before the successful payment he made on 17 August 2023. Mr R has asked for his complaint to be reviewed by an Ombudsman.

### **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.

Having done so, I've reached the same conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Mr R has been the victim of a cruel scam. I know he feels strongly about this complaint, and this will come as a disappointment to him, so I'll explain why.

The Contingent Reimbursement Model ("CRM") Code requires firms to reimburse customers who have been the victims of Authorised Push Payment ('APP') scams, like the one Mr R says he's fallen victim to, in all but a limited number of circumstances. Lloyds has said the CRM code didn't apply in this case because Mr R paid an account in his own name, and I'm satisfied that's fair.

I'm satisfied Mr R 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although he didn't intend the

money to go to scammers, under the Regulations, and under the terms and conditions of his bank account, Mr R is presumed liable for the loss in the first instance.

I'm satisfied Mr R was the victim of a scam, but although he didn't intend him money to go to scammers, he did authorise the disputed payments. Lloyds is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

### *Prevention*

Lloyds has described that Mr R tried to make two payments to the scam on 17 July 2023. The payments were blocked and during the subsequent call he denied the existence of a third party and said that he wished to cancel the payment. Lloyds cancelled the payment and unblocked the account, but it also warned him about the risks associated with cryptocurrency investments.

There is a recording of this call, but Mr R disputes it happened on 17 July 2023. I've considered the timing of the call and based on the available evidence I think it probably did take place on 17 July 2023 because there were two payment attempts on 17 July 2023, only one of which was successful. And there was a call on 10 August 2023, which is most likely the one Mr R recalls.

I've listened to the call, and I'm satisfied that Mr R dishonestly failed to disclose the existence of the third party and that this prevented Lloyds from detecting the scam. I'm also satisfied the intervention was proportionate and that it was reasonable for Lloyds to have unblocked Mr R's account.

I've considered whether Lloyds should have intervened again before the successful payment and based on the fact it wasn't obviously to a cryptocurrency merchant and there was a history of similar spending on the account, I don't think it needed to intervene again. But even if I thought Lloyds should have intervened before the successful payment, I don't think it would have made any difference because it's clear from the call and the payment reason he gave that he wouldn't have been open about the circumstances. And the fact he ignored the warnings he was given tells me he wouldn't have listened to any further warnings Lloyds might have given had it intervened again.

Finally, I accept Mr R volunteered more information during the call on 10 August 2023, but I'm satisfied the successful payment occurred on the same day as the first intervention and there is nothing to suggest he wouldn't have given the same responses if it had intervened and provided similar warnings again.

### *Compensation*

The main cause for the upset was the scammer who persuaded Mr R to part with his funds, and I haven't seen any errors to Lloyds' investigation, so I don't think he's entitled to any compensation.

### *Recovery*

I don't think there was a realistic prospect of a successful recovery because Mr R paid an account in his own name and moved the funds onwards from there.

Overall, I'm satisfied Lloyds took the correct steps prior to the funds being released – as well as the steps it took after being notified of the potential fraud. I'm sorry to hear Mr R has lost

money and the effect this has had on him. But for the reasons I've explained, I don't think Lloyds is to blame for this and so I can't fairly tell it to do anything further to resolve this complaint.

### **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 R to accept or reject my decision before 28 October 2024.

Carolyn Bonnell  
**Ombudsman**