

The complaint

Mr and Mrs G, through a representative, complain that Lloyds Bank PLC won't refund the money they lost to an investment which they say was a scam.

What happened

Both parties are familiar with the details of the alleged scam so I won't repeat them here in full. In summary, Mr G made two faster payments (£30,000 on 17 November 2017 and £10,000 on 10 September 2018) to invest in company H. He was introduced to the opportunity by an adviser he had worked with before, successfully. He funded his investment from a property sale. He was told he would receive a 5% return on the investment on a monthly basis. He received monthly returns totalling £30,500 until April 2019. When they stopped he suspected he had been scammed.

Mr and Mrs G say Lloyds did not protect them as it should have.

Lloyds said it didn't raise a scam claim as it was a civil dispute.

Our investigator did not uphold Mr and Mrs G's complaint. She said the transactions were not out of character for Mr and Mrs G's account so Lloyds had not acted in error.

Mr and Mrs G disagreed with this assessment and asked for an ombudsman's review. They said if the bank had intervened, as it ought to have, the scam would have been revealed and prevented as they would have taken any warning provided seriously.

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 would like to reassure the parties that although I am focusing on the key points here – as our rules allow - I have read and considered everything that's been submitted. Having done so, I am not upholding Mr and Mrs G's complaint. I'll explain why.

It isn't in dispute that Mr G authorised these payments. At the time he made them he believed he was transferring money to invest. 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 terms and conditions of the customer's account. So, under the Payment Services Regulations 2017 (PSRs) and the terms of their account, Mr and Mrs G are presumed liable for the loss in the first instance.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for a bank to take additional steps or make additional checks before processing a payment in order to help protect customers from the possibility of financial harm from fraud.

Lloyds says this is a civil dispute but this service believes it was an APP (authorised push payment) scam based on a court hearing that took place on 31 July 2020. However, I don't

need to comment further on this point to reach an overall outcome that is fair and reasonable in this particular case.

This is because I agree with the investigator that Lloyds did not need to intervene before following Mr G's payment instructions. I say this as the transactions were not out of character for Mr and Mrs G's account. In the five months prior to the first payment there were nine other debits for £20,000 or more, including two for £30,000. And in the five months prior to payment two there were four debits of £20,000 or more. On neither occasion did the payments drain the account.

Whilst I accept the payments were high value as Mr and Mrs G have pointed out, this alone does not indicate a risk of possible financial harm. In the context of the regular high value and legitimate debits and credits on their account I don't find either payment should have triggered a direct intervention from Lloyds. There is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. So, in the round, I cannot fairly conclude that Lloyds ought to have intervened in either of the transactions or to have reasonably suspected Mr and Mrs G were the potential victims of financial harm.

I have then considered if Lloyds took the steps it should have once it was aware of Mr and Mrs G's scam claim. I haven't seen any evidence that Lloyds was notified of this prior to 2023. Therefore, had Lloyds contacted the receiving banks to try to recover Mr and Mrs G's money once it was aware of the events that occurred, it would have made no difference. This is because by the time Lloyds was on notice the companies involved were in liquidation meaning no money was retrievable. Also, the payments were made in 2017 and 2018 so given the time that had passed before a scam claim was made, even if the companies hadn't gone into liquidation, it's unlikely any funds would have remained to be recovered.

Finally, as the payments here predate the introduction of the Contingent Reimbursement Model (CRM) code its principles do not apply in this case.

I'm sorry Mr and Mrs G lost a considerable amount of money and I can understand why they would like to be compensated for their losses. But I can only consider whether the bank, through its acts or omissions, should be held responsible for what happened. And for the reasons set out above I do not find that to be the case here.

My final decision

I am not upholding Mr and Mrs G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 11 December 2024.

Rebecca Connelley
Ombudsman