

The complaint

Mr R complains that Lloyds Bank PLC (Lloyds) is refusing to refund him the amount he lost as the result of a scam.

Mr R is being represented by a third party. To keep things simple, I will refer to Mr R 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 R tells us that he had previously invested in cryptocurrency and found an advertisement for a cryptocurrency investment company on social media that I will call X. Mr R initially commented on the post and then started to communicate with an individual who directed him to download X's app.

Mr R also says he was asked to download a cryptocurrency exchange App and told that X was backed by a well-known investment management company.

As part of the investment Mr R was added to a group chat and was required to make payments to X via cryptocurrency. The scammers guided Mr R through the process of making the disputed payments.

When Mr R had difficulty sending funds through one cryptocurrency exchange the scammer directed him to open other cryptocurrency accounts to facilitate the payments.

When Mr R attempted to make a withdrawal from the investment, he was told he would have to make further payments first. But When Mr R made the payments, he was still not able to withdraw from the investment.

Having made several payments to withdraw from the investment without success Mr R realised he had fallen victim to a scam.

Mr R made the following payments in relation to the scam. Mr R says he was only able to withdraw 100USDT from the scam and the rest of the credits were surplus amounts that he transferred back from the cryptocurrency exchanges that had not been sent as part of the investment:

<u>Payment</u>	<u>Date</u>	<u>Payee</u>	<u>Payment Method</u>	<u>Amount</u>
1	12 June 2023	Coinbase	Debit Card	£800.00
2	30 June 2023	Coinbase	Open Banking	£4,000.00
3	4 July 2023	Coinbase	Open Banking	£500.00
	7 July 2023	Coinbase	Credit	£500.00cr
4	11 July 2023	Coinbase	Open Banking	£2,000.00
5	11 July 2023	Coinbase	Open Banking	£3,000.00
6	13 July 2023	Coinbase	Open Banking	£6,000.00
7	15 August 2023	Coinbase	Open Banking	£6,500.00

8	21 August 2023	Coinbase	Open Banking	£510.00
	21 August 2023	Coinbase	Credit	£660.00cr
9	22 August 2023	Coinbase	Open Banking	£650.00
10	22 August 2023	Coinbase	Open Banking	£10.00
11	25 August 2023	Coinbase	Open Banking	£200.00
12	28 August 2023	Coinbase	Open Banking	£625.00
13	1 September 2023	Coinbase	Open Banking	£1,950.00
14	1 September 2023	Coinbase	Open Banking	£250.00
15	16 September 2023	Coinbase	Open Banking	£10,000.00
16	20 September 2023	Coinbase	Open Banking	£8,500.00
	20 September 2023	Coinbase	Credit	£8,439.86cr
17	21 September 2023	Payward Ltd	Open Banking	£8,700.00
18	21 September 2023	Paypal*Kraken	Debit card	£120.00
19	21 September 2023	Paypal*Kraken	Debit card	£120.00
20	21 September 2023	Paypal*Kraken	Debit card	£120.00
21	28 September 2023	Gemini Payments UK	International transfer	£10.00
	28 September 2023	Payward Ltd	Credit	£99.41cr
22	29 September 2023	Gemini Payments UK	International transfer	£8,500.00
	29 September 2023	Payward Ltd	Credit	£229.79cr
23	4 October 2023	Gemini Payments UK	International transfer	£200.00
	4 October 2023	Gemini Payments UK	Credit	£200.00cr

Our Investigator considered Mr R's complaint and didn't think it should be upheld. Mr R 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 isn't in dispute here that Mr R has been the victim of a scam and has lost money as a result. However, even when it is clear that a scam has taken place, and an individual has been tricked out of their money, it doesn't necessarily follow that a business will need to refund the money that has been lost.

Recovering the payments Mr R made

Mr R made payments in relation to the scam using his debit card and the method of open banking. As Mr R made the payments to genuine cryptocurrency exchanges and those exchanges provided the currency to Mr R, Lloyds would unfortunately not have any reasonable options available to it to seek recovery of those payments, as the dispute is between Mr R and the scammer to which he forwarded the cryptocurrency to, and not the cryptocurrency exchanges that provided a legitimate service to him.

Should Lloyds have reasonably prevented the payments Mr R made?

It has been accepted that Mr R authorised the payments that were made from his account with Lloyds, albeit on the scammer's instruction. So, the starting point here is that Mr R 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 Lloyds should have been aware of the scam and intervened when the payments were made. And if it had intervened, would it have been able to prevent

the scam taking place.

Our Investigator said Lloyds should have intervened when Mr R made payment six from the list above, Mr R says Lloyds should have intervened sooner. But in any event, I don't think either intervention would have made a difference, I will explain why.

Mr R attempted to make a payment in relation to the scam on 29 September 2023 that was declined by Lloyds on two occasions prompting Mr R to call Lloyds.

During these calls Mr R was advised to check the InvestSmart website and the payment Mr R was trying to make was discussed, Mr R confirmed:

- He had not been approached via social media being told he could make money.
- Nobody had asked or forced him to move money.
- He was making the payment himself and didn't have a broker.
- He had not been told to lie to the bank.

Mr R has provided copies of correspondence between himself and the scammers to us, but limited information appears to be available, meaning there is little evidence of the conversations that took place at the beginning of the scam.

From the chat transcripts Mr R has provided to us it's clear he had reservations about the investment potentially being a scam and despite being told several times he could make a withdrawal if he made a further payment, he was unable to.

Yet despite Mr R's reservations and the clear red flag of not being able to make a promised withdrawal, it's clear from the calls that took place that Mr R was willing to give false information about the surrounding circumstances leading to the payments being made.

Not being honest when questioned by Lloyds would have made it extremely difficult for Lloyds to uncover the scam that was taking place.

With the above in mind, I don't have enough to say Mr R would have been any more honest had Lloyds intervened at any other point throughout the scam. So, I don't think Lloyds missed an opportunity to prevent the scam from taking place and it is not responsible for Mr R's loss.

My final decision

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 7 March 2025.

Terry Woodham
Ombudsman