DRN-5092808

Financial Ombudsman Service

The complaint

Ms P complains that Lloyds Bank PLC won't refund money she lost when she was the victim of a scam.

Ms P is represented by a firm I'll refer to as 'R'.

What happened

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

In 2023 Ms P fell victim to a task-based job scam. She was contacted on an instant messenger application by an unknown person that claimed to work for a recruitment firm – who asked Ms P if they could share her details with an employer to receive detailed information on the job opportunity. Ms P agreed.

Ms P was then contacted by a firm – which we now know to be a scam – that I'll refer to as 'B'. B explained to Ms P that the job entailed increasing the exposure and visibility of products. And to do this, Ms P was required to complete tasks on B's platform that would generate positive ratings for the products. Ms P was told she would need to complete sets of 40 tasks and that it would take 45 to 60 minutes per day. For this, she would receive a commission of *"at least £80-100 or more"* plus a weekly salary of £700 (which would increase after the first week when she became a permanent employee).

As part of the job though, there were 'bonus missions' randomly generated that provided three times the commission. This required funds to be deposited to bring Ms P's account out of a negative balance. Ms P was assured these funds would be returned once the tasks were completed – along with her commission earnings. Ms P received a link to B's platform for her to set up an account. B then provided instructions to Ms P on how she could complete the sets – which included funding the account to complete the 'bonus missions' by purchasing crypto. Ms P went on to make the following payments to the scam via a legitimate crypto provider (some of which were sent via a payment processer):

Date	Type	Amount
20 February 2023	Faster payment	£2
20 February 2023	Debit card	£20
21 February 2023	Debit card	£32.50
21 February 2023	Debit card	£57.89
22 February 2023	Debit card	£43.85
22 February 2023	Debit card	£171.90

23 February 2023	Faster payment	£1,200
23 February 2023	Faster payment	£700
23 February 2023	Faster payment	£1,500
23 February 2023	Faster payment	£5,000
23 February 2023	Debit card	£250.11
23 February 2023	Debit card	£300
23 February 2023	Faster payment	£1,000
23 February 2023	Faster payment	£5,000
28 February 2023	Faster payment	£10,000
28 February 2023	Faster payment	£3,480
28 February 2023	Faster payment	£255
28 February 2023	Faster payment	£260
2 March 2023	Faster payment	£7,500
	Total	**£36,773.25**

Ms P attempted a £14,500 payment to the crypto provider on 1 March 2023, but this was returned. She also made another £7,500 payment to an account she held with an Electronic Money Institution (EMI) on 2 March 2023 (this isn't listed in the above table). From there, she sent the funds to the scam.

Ms P received the followings credit from the crypto provider:

Date	**Amount**
20 February 2023	£13.36
20 February 2023	£97.03
21 February 2023	£215.75
22 February 2023	£549.11
23 February 2023	£1,029.41
1 March 2023	£255
Total	**£2,159.66**

To fund the scam, Ms P took out three loans. A £15,000 loan with Lloyds, and two loans totalling £25,000 with other lenders – with the funds paid to one of Ms P's other banking providers before being transferred to Lloyds and used as part of the scam.

Ms P realised she'd been scammed when she was unable to withdraw her funds.

R complained on Ms P's behalf to Lloyds on 20 March 2024 saying the payments were made as part of a scam. In short, they said:

- The account activity was out of character and had Lloyds intervened in line with industry standards, the scam would've been exposed thereby preventing any further financial loss.

- Ms P should be refunded under the Contingent Reimbursement Model (CRM) code.

- It is understandable why Ms P felt this job opportunity was real and believable – as she reviewed B's website which appeared professional, she didn't find anything negative from an internet search, and she was also able to start with small payments and make withdrawals. Furthermore, Ms P was added to an instant messenger group with other freelancers sharing success and received professional onboarding.

- B was in constant contact with Ms P, and she was unfamiliar with working from home and this type of work offered. And the contact first came from a 'recruiter'.

- Lloyds should be on the lookout for this type of scam to prevent their customers from foreseeable harm.

- If Lloyds had intervened by asking open probing questions, the scam would've been exposed, and the spell of the scammer would've been broken.

- Lloyds should refund Ms P and pay 8% simple interest.

Lloyds didn't uphold the complaint. In short, they said:

- The payments weren't covered by the CRM code.

- Ms P could've taken steps to protect herself – such as carrying out checks on the 'recruiter' who contacted her or questioning why she had to pay money as part of the employment.

- They could've done more to protect Ms P as when she attempted the £14,500 payment on 1 March 2023, she told them the loan that she'd applied for that same day was to be used to invest via the crypto provider. They released this payment, but it was returned by the crypto provider who informed Ms P to send smaller payments. Ms P then sent a £7,500 payment to the crypto provider, which was successful, before they blocked an attempted £7,000 transaction.

- They referred Ms P to branch. While on a call in branch, they had concerns about what Ms P was investing in but due to the time the branch closed, they couldn't continue. They arranged a follow up call with Ms P but later that night she transferred £7,500 to her account with an EMI before forwarding it on as part of the scam.

- They refunded £15,000 and paid 8% simple interest. This is because, when they stopped the £14,500 payment, they knew it had been applied for through misleading information being given. And so, they didn't do enough to protect Ms P before she sent the two £7,500 payments.

- They confirmed the loan interest had been frozen. And they wouldn't unwind the loan as Ms P applied for it of her own free will.

The complaint was referred to the Financial Ombudsman. Our Investigator didn't think Lloyds were responsible for Ms P's losses. She explained that Lloyds spoke to Ms P on several occasions to question payments and gave scam warnings, but despite this, Ms P still proceeded to make the payments. And while she thought Lloyds could've asked Ms P more open questions, she didn't think this would've uncovered the scam – and as Ms P didn't explain the payments were for a job, any warnings and the subsequent warnings provided would've been regarding investment scams which wasn't relevant to Ms P's situation.

Our Investigator did however agree that Lloyds ought to have done more at the point they became aware she was using the loan funds for investment purposes. Because of this, she thought Lloyds had acted fairly by refunding the £15,000, paying 8% simple interest and freezing the loan interest.

R disagreed and, in short, they added:

- They fundamentally disagree that Lloyds shouldn't reasonably have been expected to prevent the scam.

- Banks need to ask open, probing questions when intervening and they need to hold up customers' answers to a reasonable level of scrutiny.

- The interventions undertaken by Lloyds were insufficient and inappropriate given the risk of fraud. And they highlighted that:

    - The questioning was generic and close-ended. At no point did Ms P state she was investing but this was assumed by Lloyds. And Ms P answered their questions honestly and to the best of her ability.

    - Questions were phrased poorly – merging multiple questions that are likely to result in different answers in the same sentence and often make the questions overly specific.

    - The bank agents focused on the security of Ms P's crypto wallet, whether there was a third-party investment broker involved, if she'd been forced to make the payments and if she had to pay any withdrawal fees. These however didn't apply to her circumstances.

- It's evident in the last call (of four) between Ms P and Lloyds, when she was referred to branch, that she had very little understanding of crypto. And she told Lloyds that she wasn't investing and had no plans to invest – which was true, as she believed she was making the payments for a job/task.

- The payments were made in 2023 when job/task scams were very prevalent, and Lloyds should've been aware of such scams – and provided tailored warnings and/or questioning regarding them specifically.

- Crypto is involved in all sorts of fraud and is not exclusive to standard investment scams. And so, Lloyds shouldn't assume that they're automatically involved in a crypto scam.

- Lloyds, as the fraud expert, should be aware of this and intervene with open and probing questions with a view to uncovering the scam, ascertaining the fraud risk, and identifying exactly what is occurring so they can deliver relevant and specific warnings. Had such an intervention taken place, Ms P's losses would've been prevented.

- If Ms P had even been presented with a tailored warning relevant to crypto investment scams, this would've potentially uncovered the scam as there are similarities – such as being approached through social media and being pressured to make payments to capitalise on opportunities presented. Instead, Ms P was given a generic crypto warning explaining that the Financial Conduct Authority (FCA) has warned of its risk and that people should be prepared to lose money as a result.

- Banking Protocol should've been enacted – especially when Ms P told Lloyds that she couldn't remember who advised her to open the crypto wallet.

- They didn't think our Investigator's conclusion that Ms P *"made it hard for both businesses to understand the true circumstances surrounding the payments and provide a truly tailored warning"* was fair. Ms P answered all questions to the best of her ability given the poor nature of the questioning, which revolved purely around her being a victim of an investment scam despite her never stating she was investing.

- No coaching took place at the time of the first two calls, meaning that all further questions would've been answered honestly with the scam being uncovered.

Our Investigator considered R's additional points, but her position didn't change. She thought, based on Ms P's chat with B, that she wouldn't have been truthful with Lloyds had they questioned her further. And that, even when she was aware Lloyds suspected potential fraud, she made the £7,500 payment to her EMI account to circumvent the restrictions Lloyds had put in place. Furthermore, Ms P told B that she had avoided the bank despite them wanting to talk to her about fraud. So, our Investigator thought Ms P would've proceeded regardless of any warnings being provided as she was happy to withhold the real reasons for the payments. Because of this, even though some of Lloyds' interactions with Ms P could've been better, she considered Ms P would've still attempted the payments and if prevented, she would've moved it to another account (as she did).

R didn't agree with our Investigator and asked for the matter to be referred to an Ombudsman. In short, they added:

- On the phone calls, the bank should've made the effort to confirm the payment purpose and ask more probing questions.

- No effective warnings or questions were delivered. And the failure to probe further or provide specific warnings was highly negligent.

- They reiterated that Lloyds should've been on the lookout for this type of scam as banks are expected to react to fraud trends. And Lloyds would've received a significant number of job scam complaints by this point.

- Ms P shouldn't be punished for honestly answering the investment-related questions. And it is not reasonable to expect a customer to give additional details above a bank's closed questions.

- They maintained there was no meaningful coaching or cover given before the second call, nor did Ms P have crypto or investment experience that would've allowed her to answer fraud related questions with confidence.

- So, even if Ms P had explicitly stated the payments were for investment purposes, she wouldn't have been able to satisfy the bank that she was investing safely.
- Even though she recognised Lloyds were withholding her payments, she had every reason to think this was a mistake rather than due to a high fraud risk – as she hadn't been warned effectively.
- A proper intervention by Lloyds could've prevented Ms P's losses.

The 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.

I'm sorry Ms P has lost a significant amount of money and I don't underestimate the impact this has had on her. But while I know this won't be the outcome she is hoping for, I don't think Lloyds has acted unfairly by not refunding her loss for similar reasons to our Investigator. I'll explain why.

Before I do, I want to reassure Ms P that I've considered everything R has submitted on her behalf. And so, while I've summarised this complaint in far less detail than what has been provided, I want to stress that no discourtesy is intended by this. If there is a submission I've not addressed; it isn't because I have ignored the point. It's simply because my findings focus on what I consider to be the central issue in this complaint – that being whether Lloyds is responsible for the loss Ms P suffered to the scam.

As Lloyds has pointed out, these payments aren't covered by the CRM code – which can offer a potential means of obtaining a refund following APP scams. This is because it doesn't cover debit card payments or payments made to an account held in a person's own name. I've therefore considered whether it would otherwise be fair and reasonable for Lloyds to reimburse Ms P.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. Here, it isn't disputed that Ms P knowingly made the payments from her Lloyds' account and so, I'm satisfied she authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of her account, Lloyds are expected to process Ms P's payments, and she is presumed liable for the loss in the first instance.

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

So, the starting point here is whether the instructions given by Ms P to Lloyds (either individually or collectively) were unusual enough to have expected additional checks being carried out before the payments were processed.

Here, I wouldn't reasonably have expected Lloyds to have carried out additional checks before processing the payments up to, and including, the £1,500 payment on 23 February 2023. This is because, although they were made in a relatively short period of time, the transactions were of a low value and being paid to a legitimate crypto provider. And so, I don't think Lloyds would've had enough reason to suspect Ms P was at risk of financial harm from fraud.

Given Lloyds has already refunded the last £7,500 payment to the crypto provider, as well as the £7,500 payment made to the EMI provider on the same day (and which was then lost to the scam), I don't need to consider that aspect of Ms P's loss further. Instead, I'll be focussing on the rest of the disputed transactions – those between the first £5,000 payment made on 23 February 2023 and the £260 payment made on 28 February 2023.

Here, I'm aware that Ms P did speak with Lloyds on 23 February 2023 about the first £5,000 payment. And I think it was reasonable for Lloyds to have carried out additional checks before processing this transaction. So, I've considered whether the checks Lloyds undertook were sufficient.

The £5,000 payment was identifiably going to a well-known crypto provider via a payment processor. Ms P confirmed to Lloyds she was making the payment for crypto purposes and that she'd successfully made payments to her wallet before. The agent then goes on to ask Ms P various questions, explaining to her this is because *"they are seeing a lot of scams with regards to crypto and it's just to make sure everything is ok at your end, and nobody is trying to get a hold of your money"*. Lloyds' questioning led to Ms P confirming:

- Nobody else had access to her wallet information, and she could withdraw from it.
- She hadn't received any calls offering great investment opportunities with crypto, to get high returns, nor have they asked her to move this money on a phone call.
- She hadn't responded to any ads on the internet or social media websites offering these good deals, and that she'd done her own independent validation.
- The money had come from one of her other personal accounts.

The agent provided Ms P with a warning about crypto and the risks involved, with reference given to the FCA's published crypto warning – to which Ms P confirmed she was aware of the risks.

R rightly points out that banks should ask open and probing questions when undertaking fraud prevention checks. Lloyds didn't do so here. Instead, their questioning was predominately close-ended and focussed on some of the most common features of crypto investment scams – such as regarding unsolicited phone calls offering investment opportunities, responding to ads online or on social media, and access to the crypto wallet (including the ability to make withdrawals).

I've noted R's point that Lloyds shouldn't have assumed Ms P was falling victim to a crypto investment scam but that they should've been open to the possibility of other scams – including, in this case, job scams. While I largely agree with this, as banks should be responsive to the customer's specific circumstances and what they tell them, I think it's somewhat understandable that Lloyds' focus was predominately directed towards the risk of crypto investment scams. This is because, although job scams involving crypto at the time had been on the rise, they weren't as prevalent as they are now. And the vast majority of crypto scams at the time of the disputed payments were in relation to investment scams.

Nevertheless, I still think Lloyds could've done more when questioning Ms P in relation to the £5,000 payment. And so, I've considered whether, had Lloyds done what I'd reasonably have expected, this would've made a difference. Essentially, would further appropriate questioning have uncovered the scam and prevented Ms P's loss.

I haven't seen any evidence of coaching from B prior to this payment being made – although I can't rule it out entirely. That said, I've considered that in the 23 February 2023 call Ms P was asked if she'd received any calls offering crypto investment opportunities and to confirm that she hadn't been asked to move this money. While I accept a consumer shouldn't reasonably be expected to disclose information to a business beyond what they're asked, nor should they necessarily know what information a business requires, I'm mindful that this part of the questioning, despite its context being in relation to investment scams, was somewhat relevant to Ms P's situation.

This is because Ms P had received unsolicited contact from a third-party, albeit via an instant messaging service, offering an opportunity to earn money. And although this was a job and not an investment, Ms P was still being directed to send funds to crypto as part of it. And so, I think this part of Lloyds' questioning ought reasonably to have resonated with her. It therefore wouldn't have been unreasonable to have expected Ms P to have disclosed to Lloyds that there was a third-party involved (B) and that they had directed her to send funds to the crypto provider. And even if Ms P hadn't specifically said this was as part of a job opportunity, as she wasn't asked nor would she reasonably have known to tell the bank, it would've given Lloyds pertinent information when ascertaining Ms P's risk of financial harm from fraud. In turn, it would've allowed Lloyds to have probed Ms P further about the payment and improved their ability to uncover the scam. Unfortunately, Ms P didn't share this information – and it's unclear to me why she didn't.

I've also considered that, prior to the section of the chat conversation showing coaching from B, Ms P told them that she'd *"spent 20 minutes on the phone convincing my bank to allow the transfer"*. And that, as part of the scam journey, Ms P had conversations with Lloyds about payments she was attempting to make – which included her being told there was a higher-than-normal risk of it being fraudulent, that fraudsters can provide convincing stories which can be very believable, and they often tell them not to speak with their bank. Furthermore, in the last call that took place in branch, Ms P withheld the true purpose of the payment she was trying to make (£7,000). With her at first saying she wasn't investing but putting the funds into her wallet to decide at a later date how to use it, before going on to explain that she would be using it *'indirectly'* for home improvements/debt consolidation (which was the reason she gave for the £15,000 loan application). And when questioned about who recommended the crypto provider, Ms P says she asked her friends – which wasn't true.

I accept that by the point of the fourth call there is clear evidence of coaching from B for Ms P to mislead her bank(s). But I consider Ms P's willingness to follow the B's instructions demonstrates her trust in B – and that she was heavily *'under their spell'*. This is further supported by the fact that, despite Lloyds' interventions that included scam warnings (albeit not specific to jobs scams), Ms P circumvented the payment restrictions Lloyds put in place by sending funds to her own account with an EMI. And I disagree with R that Ms P had sufficient reason to believe the payments were being held due to a mistake rather than a high fraud risk – as I consider Lloyds made it clear they had fraud concerns. From this though, while after the earlier £5,000 payment, I'm satisfied these events give an indication as to what Ms P would've most likely done had Lloyds taken additional steps before processing the £5,000 transaction.

I can't be certain what would've happened. Instead, I need to decide, on balance, and taking everything into consideration, what I consider would've most likely happened. And while I know R strongly disagrees, I'm not persuaded that additional checks would've necessarily uncovered the scam or that tailored crypto warnings would've prevented Ms P from going ahead with making the payments. At which point, I should note that Lloyds' concerns about

Ms P being at risk of financial harm from fraud when she attempted the £14,500 and £7,000 payments was heightened due to her confirmation that it was being funded by the £15,000 loan. This however wouldn't have been the case for the £5,000 payment, and Ms P only told Lloyds that she was funding it from another personal account – with no reference of a loan mentioned. As a result, this would've given Lloyds less reason to suspect Ms P was falling victim to a scam – as the use of borrowing is a common indicator.

Although Lloyds could've done more, I don't think I can reasonably conclude that Ms P would've told them that she was making the £5,000 payment as part of a job opportunity or that a third party was involved – as she hadn't done so previously, nor did she do so later (albeit when clearly under the influence of B). And I consider it more likely than not that Ms P would've very likely remained of the belief she was making the payments for legitimate purposes - particularly as she'd received several returns by this point. And any crypto scam warnings, based on what Ms P was willing to disclose to Lloyds, would've likely addressed the key risks and features of the most common crypto scams – crypto investment scams. Unfortunately, these wouldn't have been relevant to Ms P's situation and so, I don't think they would've resonated to the extent whereby she wouldn't have gone ahead with the payment(s). But even if Ms P did have any concerns, given the clear trust she had in B that I've alluded to, I think she would've likely referred such concerns to B and, accordingly, she would've been reassured of their legitimacy. In turn, I think Ms P would've followed their instructions to ensure she could continue making payments as part of the job opportunity (as she did).

Arguably, Lloyds should've contacted Ms P again in respect of subsequent payments - such as the second £5,000 payment on 23 February 2023 or the £10,000 payment made five days later. But even if Lloyds had done so, I haven't seen anything to suggest the outcome from such interventions would've been any different – as there wouldn't have been a change in circumstances, with Ms P still trusting B and of the belief she was making payments as part of a legitimate opportunity. And although I understand R believes banking protocol should've been invoked here, I wouldn't reasonably have expected this prior to Lloyds' referral of Ms P to branch. And so, given Lloyds has already refunded Ms P's loss from this point of the scam, I don't think I need to consider it any further.

I've thought about whether Lloyds could've done anything to recover Ms P's loss when the scam was reported. But given Ms P had forwarded her funds on from her own crypto wallet to B, no funds would've remained. And in respect of the debit card payments, the only option of recovery was via chargeback. But given the payments were made to a legitimate crypto provider, I don't consider they would have had any prospect of success given there's no dispute the crypto was provided to Ms P. And so, I don't think Lloyds could've recovered Ms P's loss.

It follows that I consider Lloyds' decision to refund £15,000 and pay 8% simple interest (for loss of use of money), and freeze the loan interest, is fair.

I'm sympathetic to Ms P's situation as I realise she's suffered a significant financial loss. But it would only be fair for me to direct Lloyds to refund her further if I thought the bank was responsible for that part of her loss – and I'm not persuaded that this was the case. For the above reasons, I think Lloyds has acted fairly and so I'm not going to tell them to do anything further.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 29 May 2025.

Daniel O'Dell
Ombudsman