

The complaint

Mr and Mrs V complain that Lloyds Bank Plc (as the recipient bank) didn't do enough to prevent the loss they suffered when they fell victim to a scam.

For ease of reading and as he's done most of the correspondence on the complaint, I'll mostly just refer to Mr V where I mean both him and Mrs V.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide an overview of some of the key events here. In 2022 Mr V was sadly the victim of a scam. He conducted extensive research before making investments with what he believed to be a Financial Conduct Authority (FCA) regulated firm. Unfortunately, the firm in question had been cloned and Mr V was actually communicating with scammers.

As a result of the scam he sent two payments from his bank 'B' based outside the UK. These both arrived in the same account held with Lloyds. Mr V also sent a third payment which fortunately he was able to recall before it credited the Lloyds account.

Mr V describes how on 22 May 2022 he noticed that the FCA had published a warning that the firm he believed he'd invested with had been cloned. He reported this to his own bank who in turn sent a message notifying Lloyds that Mr V's payments had been made as a result of 'suspected fraud'. This was received by Lloyds on 25 May 2022. Ultimately, in December 2022, Lloyds returned an equivalent amount of euros for the £12,994.77 that they said they had been able to recover. This obviously still left Mr V at a significant loss.

Mr V involved a solicitor and asked Lloyds for certain information about the recipient account. But rather than pursue things through the courts he made a complaint and referred it to our service. Lloyds didn't think they needed to do more. Mr V believes Lloyds failed in various ways in relation to the recipient account and is seeking his outstanding loss from them.

One of our Investigators ultimately didn't recommend that the complaint should be upheld. She concluded Lloyds weren't responsible for any errors that had impacted the loss suffered by Mr V. Mr V didn't accept this outcome and asked for an Ombudsman to review his complaint.

In November 2024 I issued a provisional decision in which I said:

"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 a different outcome to that of our Investigator. So, I'm issuing this provisional decision to give both sides a further opportunity to comment before finalising my decision.

I've seen evidence to show that the usual account opening checks were conducted by Lloyds when opening the account Mr V paid. And there isn't anything from that time that I think reasonably could have alerted Lloyds that the account they were opening might later go on to be used in connection with a fraud or scam. So I don't think there were any failings in the account opening process that I can say caused the loss.

The evidence also shows that the account Mr V paid had been open for more than two years at the time at which he made his payments to it. Within that time period it had been regularly used and the activity wasn't outside of what could reasonably be expected for an account of that type. I don't think there was anything in the account activity prior to Mr V's payments arriving that I think should have given Lloyds cause for concern.

Mr V's first payment credited the account on 9 May 2022 as £19,575.37. The funds it represented were then paid away from the account over the following days. This activity was a continuation of how the account had previously operated, and I don't think it was so unusual or suspicious that I'd have expected Lloyds to have done more.

Mr V's second payment credited the Lloyds account as £146,972.36 on 19 May 2022. The majority of this was then paid away from the account in the following days. This did represent a change in how the account had been used previously. But in order for me to be able to make an award in a complaint, I have to be satisfied that any error by the respondent bank could fairly and reasonably be considered to have caused any loss to the complainant. The arrival and spending of that second payment wasn't obviously indicative of fraud, and as there was no beneficiary name mismatch, the payment would've appeared to have been intended for the recipient accountholder. And in the context of an established account that had been operating for quite some time, I think asking some questions of the accountholder before allowing the funds to be spent is all I'd reasonably expect of Lloyds in these circumstances.

So whilst the payment was over and above the value that was typically seen or expected in this account, at that point in time, there wouldn't have been any reason for Lloyds to have disbelieved what was an established customer or otherwise have taken additional steps to verify the account activity at that time. Its most likely the accountholder would have plausibly explained the activity as genuine and it would have continued. I say this because when Lloyds did receive notification of fraud, the accountholder responded and provided an explanation, something I'll come to below.

However, on 25 May 2022 Lloyds first received a SWIFT message from B which indicated that Mr V's second payment had been made as a result of suspected fraud. Lloyds have also confirmed that they'd never received any similar notifications about this account prior to the contact from B. Initially Lloyds did as I'd expect and applied a block to the account the same day. I can also see that they went back to B to request further information and soon afterwards, they also attempted to speak to their customer.

During this call the accountholder provided a plausible explanation for the arrival and sending on of the funds. The accountholder also knew Mr V's name as the sender of the payments and Lloyds asked to be provided with proof of entitlement to the incoming payments. Lloyds have said that following their call with their customer, whilst they were investigating, they partially removed the blocks applied to the account. This allowed payments to be received and direct debits / charges to be taken. At that point in time, Lloyds were on notice of the likelihood of a problem with the payments from Mr V. So unlike my above comments in relation to the monitoring of the account, they now had an objective basis to suspect that the incoming payments had been made as a result of a fraud or scam, meaning blocking the account was entirely appropriate. I can however, understand why Lloyds didn't want to inconvenience their customer until they had more information and

evidence. But in these circumstances, I think Lloyds ought to have ringfenced the remaining funds from Mr V's payment. I don't think it was fair and reasonable to allow more of the money from the incoming payment (which had been reported to them by another bank as having been made as a result of suspected fraud) to be paid away (even through direct debits and charges), whilst the investigation was ongoing.

As a result of Lloyds decision to allow these further debits from the account, less money remained in the account to be returned. Had Mr V's funds been ringfenced (as I think they ought to have been), that would have applied to the £15,623.75 that was in the account on 25 May 2022. And this is the amount that most likely ultimately would have been recovered rather than the £12,944.77 that was later returned in December 2022. A difference of £2,678.98. Due to this, I think it would be fair and reasonable for Lloyds to pay Mr V that amount.

I've also thought about the time taken to return the funds. Lloyds say that they requested an indemnity from B prior to returning any funds. I don't think this was an unreasonable step to take, particularly when dealing with an international bank. But Lloyds said that when no indemnity was forthcoming, they took the decision in December 2022 to return the funds in any case. I think this was fair and I don't think Lloyds are at fault for the delay in the funds being returned. If Mr V has evidence that his bank did provide an indemnity to Lloyds (particularly if at an earlier date) then I'd be happy to consider it. But as things stand, I'm not intending to conclude that Lloyds should have returned the recovered funds sooner than they did.

However, as I think the additional £2,678.98 would have been returned at the same time as the other recovered funds, and Mr V has been without the use of that money in the meantime – then 8% simple interest (yearly) should also be added. This should be calculated between the 23 December 2022 and the date of settlement.

I understand this still leaves Mr V at quite a considerable loss. But my role requires that I remain impartial. So despite my natural sympathy for him as a victim of crime, I don't currently think Lloyds need to do more than I'm setting out below to resolve this complaint.

For completeness, Mr V has mentioned some further issues he has with Lloyds which I'll also address here. Mr V felt the wording of the indemnity request was misleading as it referred to "the sum of EUR 175661.37 or less". Whilst I can understand why this might have raised his hopes, the use of the full amount is standard industry practice. This isn't something that I can see happened in this particular case, but there can be more than one victim who has sent funds to an account. And so some investigation often needs to be completed around deciding who any remaining funds should be returned to. By using the full amount it provides Lloyds with protection to send any sum up to the full amount back, without needing to revert to the sending bank for a further indemnity. So again, I don't think Lloyds acted unreasonably in wording it as they did.

Mr V also doesn't think that Lloyds were forthcoming enough in sharing information. He would like meaningful compensation for his legal costs and anxiety caused by what he describes as Lloyds' reluctance to release details. I've considered this and whilst I sympathise with Mr V's situation, ultimately it was his decision to instruct legal professionals to initially pursue his loss that way. Our service is free to consumers and exists as an alternative to the courts. And in this case, I don't think I can fairly expect Lloyds to reimburse any legal costs Mr V incurred. Similarly, whilst I can understand why Mr V wanted further information about the recipient account, Lloyds are still bound by data protection laws. And so, even in these circumstances, they aren't able to freely share information directly with Mr V about the recipient account and accountholder. And beyond this, even if I were to conclude that Lloyds should have shared more and didn't, given the police investigation

(something I'll refer to below) concluded the scammers seem to have been based outside the UK and couldn't be traced, I don't think this would have ended up with Mr V being in a meaningfully different position in any case. I still wouldn't have been able to say that but for any failure to share information, Mr V more likely than not would've recovered his loss through the courts.

I know Mr V is unhappy that Lloyds hasn't reported the matter to the police. However, it isn't Lloyds' responsibility to do so. It is for the victim of crime – here Mr V, to report the matter, something I understand he has done. I'd expect Lloyds to co-operate with any police investigation – including the sharing of any information if they were to request it. I've not seen any evidence which shows Lloyds have failed to comply with police enquiries. Indeed, it seems the evidence Mr V has provided shows that the police enquiries unfortunately reached a dead end as they found the activity was likely controlled by individuals outside the UK.

My provisional decision

For the reasons outlined above, but subject to any further information I receive from either Mr and Mrs V or Lloyds, I intend to uphold this complaint in part.

I intend to direct Lloyds Bank Plc to pay Mr and Mrs V an equivalent amount of euros to reflect the sum of £2,678.98 (using the exchange rate in place on 23 December 2022). 8% simple interest (yearly) should be added to this amount to be calculated between 23 December 2022 and the date of settlement.

If Lloyds deducts tax from the interest payment, it should give Mr and Mrs V evidence of how much they've deducted and why, so they are able to claim it back if it is appropriate for them to do so."

Lloyds responded to say they accepted my provisional decision. Mr V responded to say he disagreed and he made some further comments which I'll address below.

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.

Mr V reiterated that he didn't think Lloyds sufficiently 'knew their customer'. As I've mentioned above, the account had been open and operating for a number of years (without any prior reports of fraud or scams being made) before Mr V made his payments. And Lloyds aren't required to maintain detailed oversight of how their accountholders conduct their day-to-day business. Indeed, the evidence suggests that the account wasn't being used to receive scam payments prior to Mr V's. So I still don't think there were failures by Lloyds in relation to their monitoring of the account that caused the loss to Mr V.

Mr V highlighted the significant loss he has suffered and his disappointment that there won't be any consequences for the perpetrators. I sympathise with Mr V being a victim of crime as he has and don't doubt the impact of this upon him. But our service can only comment on the actions of Lloyds. I share his disappointment that the police investigation doesn't appear to have resulted in any suspects being caught, but the criminal investigation isn't something our service can assist with.

I understand why Mr V initially considered legal action (and then didn't pursue that after coming to our service). But for the reasons I've already stated, there isn't a reasonable basis upon which I can fairly ask Lloyds to cover the legal costs he paid.

Mr V says that Lloyds allowed his money to disappear under its watchful eye and he believes they should have done more. He suggested that a compensation award might spur them on to do more in the future. Beyond the award I'm making for the reasons I've explained, I don't agree that there were further failures here by Lloyds which caused the loss to Mr V and any awards our service makes aren't punitive. So, I'm not going to require Lloyds to do more than I set out in my provisional decision to resolve this complaint.

My final decision

For the reasons outlined above, my final decision is that I uphold this complaint in part.

Lloyds Bank Plc must pay Mr and Mrs V an equivalent amount of euros to reflect the sum of £2,678.98 (using the exchange rate in place on 23 December 2022).

8% simple interest (yearly) should be added to this amount to be calculated between 23 December 2022 and the date of settlement.

If Lloyds deducts tax from the interest payment, it should give Mr and Mrs V evidence of how much they've deducted and why, so they are able to claim it back if it is appropriate for them to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs v and Mr v to accept or reject my decision before 9 January 2025.

Richard Annandale
Ombudsman