

The complaint

A limited company, W, complains that Lloyds Bank Plc (as the recipient bank) didn't do enough to prevent the loss it suffered as the result of a scam.

W's complaint has been brought by its director Mr R, who has used a representative when doing so. But for ease of reading, I'll mostly just refer to Mr R where I mean him, the representative and W.

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. In September 2020 Mr R made a payment for around \$192,000 from W's account to an account held with Lloyds. At the time he believed this to be to settle a legitimate invoice from one of W's suppliers. That payment credited the Lloyds account as £144,977.03 on 9 October 2020. Mr R says that soon after this payment, he found out his supplier's emails had been interfered with and the account details on the invoice had been changed. He reported this to both his own bank and Lloyds.

Mr R says he didn't receive a response from Lloyds and in 2023 he complained. Lloyds responded to the complaint and in summary said they didn't think they'd done anything wrong. They said the account had been opened correctly and that by the time they'd received Mr R's report, no funds remained to be returned. Mr R asked our service to investigate and one of our Investigators thought the complaint should be upheld. She recommended that Lloyds refund the full loss plus 8% simple interest. Mr R accepted this but Lloyds didn't, they asked for an Ombudsman to review the complaint.

In January 2025 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'm intending to reach 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 my decision is finalised.

Firstly, I'm satisfied that Lloyds correctly followed their processes when opening the account in question. This took place a number of months before Mr R made his payment and I don't think Lloyds reasonably could have known that the account they were opening would later go on to be used in connection with a fraud or scam. So, I don't think there were any failures connected to the opening of the account that caused Mr R's loss.

I've also looked at the account activity prior to Mr R's payment arriving in the account. The account was used broadly in line with what would be expected for an account of that type. And I don't think there was anything relating to Lloyds' monitoring of the account prior to the payment from Mr R where I think they ought to have intervened or otherwise done more in such a way it would have impacted the loss suffered. Lloyds have also confirmed there were

no other reports of this account receiving scam funds prior to the contact from Mr R, so again, I don't think there was a failing in this regard.

The evidence from Lloyds shows that Mr R's payment credited the account at 4.00pm on Friday 9 October 2020. Lloyds' say their system highlighted this payment, presumably due to the large value involved, and that it was reviewed on the next working day that being Monday 12 October 2020. The evidence from Mr R also shows that 12 October 2020 was the same day Lloyds were informed in an email that the payment was made as a result of a scam.

In the circumstances of this complaint, I think Lloyds flagging the incoming payment for a review was a reasonable and proportionate response. The accountholder had indicated that they anticipated a turnover of around £400,000 per calendar year through the account. This would support the argument for a payment of around £145,000 not being especially unexpected or suspicious. However this was a significant amount of money and not something that had been received in the account previously.

Lloyds say this review took place the next working day on 12 October 2020. In the circumstances of this complaint, given the length of time the account had been operating, the way in which it had previously operated, and information about the expected and intended use of the account, I don't think this was unreasonable. The recipient account was a business account. I don't think it is reasonable to expect Lloyds to have blocked their customers account at that time and to prevent the funds being used, solely on the basis of an incoming payment that was larger than those that had previously been received, but which was still within the expectations for that particular account.

That being said, the funds from Mr R's payment were then spent and transferred from the account. This took the form of around 10 payments spread across 9 and 10 October which together totalled nearly the full amount sent. By 11 October 2020, the balance in the account was down to £70.51. Such a large amount of money being spent / transferred in a relatively short space of time was unusual for the account. But even if I were to say that Lloyds should have intervened in any of these payments, again I don't think this would have resulted in the discovery that Mr R's incoming payment had been made as a result of a scam. It's more likely than not that the accountholder would have confirmed the activity as genuine and it would have continued. I say this as the outgoing payments went to beneficiaries that had been paid before which wouldn't have been a particularly concerning factor. And Lloyds initial consideration in questioning any outgoing payments would've been for the risk to their own customer. Further to this, as I've covered above, there was also nothing (at that time) to indicate an issue with the incoming payment. I just don't think any conversation that reasonably could've been expected between Lloyds and the accountholder over the weekend in question, would have resulted in the discovery that the incoming payment had been made as a result of a scam. Or that anything would've been said that would've caused Lloyds to restrict access to those funds.

I've not been provided with evidence of when Mr R's bank contacted Lloyds about the payment. But I have seen an email from Mr R which reports the payment as having been made as a result of a scam on 12 October 2020. And it would appear Lloyds took appropriate action on that date in any case. Lloyds complaint response says that no funds remained to be returned. But the statements I've seen show that £70.51 was transferred from the Lloyds account on 13 October 2020. I asked Lloyds about this transfer and they said it was held in one of their accounts and wasn't returned to the accountholder. If Lloyds have retained these funds, they presumably accept that their customer has no entitlement to them. And in the circumstances of this complaint, I think this amount should have been returned to Mr R, rather than being retained by Lloyds (who also have no claim to this money). As a result of this, I think it would be fair and reasonable for Lloyds to pay Mr R the

£70.51. But as I think establishing who had a potential claim to that money would have taken some time, I think it would have been returned on or around 1 December 2020. And as the payment arrived in the account in US Dollars, I think the payment should be made in such a way that Mr R receives an equivalent amount of USD had the £70.51 been returned on that date. As Mr R has been without the use of that money in the meantime, 8% simple interest (yearly) should also be added.

I appreciate this still leaves Mr R at a considerable loss, but for the reasons I've explained, I don't think there is a reasonable basis upon which I can require Lloyds to do more than I'm suggesting above to resolve this complaint.

My provisional decision

For the reasons outlined above, but subject to any further information I receive from either W or Lloyds Bank Plc, I intend to uphold this complaint in part.

I intend to direct Lloyds Bank Plc to pay W the same amount of USD that they would have received had £70.51 been returned on 1 December 2020 (using the exchange rate in place on that date).

8% simple interest (yearly) should also be added to the amount paid. This is to be calculated between the 1 December 2020 and the date of settlement. If Lloyds deducts tax from the interest award, they should provide W with evidence of what has been deducted and why so it can be claimed back if appropriate."

Lloyds responded to say they accepted my provisional decision. Mr R responded with 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 R questioned Lloyds' diligence when opening the account. He believes the recipient accountholder may have been based in Malaysia (due to the SWIFT messages) and questions what Lloyds did around the account opening. I can confirm that the recipient accountholder was based in the UK. And the evidence I've seen confirms that a valid UK driving licence was on file with Lloyds when the account was opened. So, I maintain that there weren't relevant failings by Lloyds, and I still don't think they reasonably could've known at the time of opening the account that it would later be used in connection with a fraud or scam.

Mr R disagrees that Lloyds just flagging the incoming payment was a reasonable response. He thinks the arrival of around £145,000 should have required more from Lloyds. He highlights that he suspects the account may have been a 'mule' account and Lloyds have a dedicated team to try to combat this. He also thinks that my decision would enable scammers to steal money with impunity up to the amount of any anticipated turnover. I appreciate, particularly given the size of the payment, why Mr R feels strongly that Lloyds' ought to have done more. However, cases such as these can often be finely balanced, and each is determined on the specific and unique facts. In hindsight it is easy to say certain steps ought to have been taken. But my role requires me to consider the information available to Lloyds at the time, to decide if they acted fairly and reasonably. Lloyds always have to strike a balance between stopping and checking payments and enabling their customers free access to their accounts.

I said in my provisional decision that I think Lloyds were right to flag this payment. But in the circumstances of this particular complaint, I still don't think it's reasonable to have expected Lloyds to have blocked the account based solely on the basis of the incoming payment. In reaching this conclusion I've also taken account of what Lloyds knew about their accountholder, the expected and intended use of the account and the length of time it had been operating for. So the issue here isn't whether Lloyds should or shouldn't have flagged the incoming payment, factually, they did. It's about whether Lloyds' response when flagging that payment was reasonable, and for the reasons I've explained, in the circumstances of this complaint, I think it was.

The activity on the account prior to the arrival of Mr R's payment has also been questioned. I have nothing to add on that point beyond what I said in my provisional decision which was *"And I don't think there was anything relating to Lloyds' monitoring of the account prior to the payment from Mr R where I think they ought to have intervened or otherwise done more in such a way it would have impacted the loss suffered."*

Mr R doesn't think that Lloyds' lack of intervention in the outgoing payments was acceptable, particularly following the 'flag' in relation to the incoming payment. Again, I've carefully considered this point. But I still don't think that any reasonable level of intervention over the weekend in question would've resulted in the discovery that Mr R's incoming payment had been made as the result of a scam. Even if any outgoing payments had been discussed – the incoming payment appeared to be intended for the accountholder, the reference provided alongside it wouldn't have given Lloyds further cause for concern. And given it was within expectations for the account, there weren't any previous reports of fraud and the payments were going to beneficiaries that had been paid before, I wouldn't have expected an agent challenging the outgoing payments to have had any reason at that time to have dug deeper or to have questioned a plausible explanation that the accountholder more likely than not would've given at the time. And without a sound basis for doing so, a bank can't just withhold funds from their customer or not execute payment instructions they've been given. Ultimately under the mandate and the terms of the account, this is what they are required to do. In this particular case, against the backdrop of what I've set out above, I don't think it would've been reasonable to expect Lloyds to have sought further evidence from their accountholder at the material time.

Mr R has also questioned what Lloyds did to the account / accountholder following the report of the scam. He asks whether Lloyds went to the police and or closed the account. I can confirm that Lloyds responded appropriately following receipt of the allegation their account had received funds as the result of a scam. I also wouldn't have expected Lloyds to have reported matters to the police, as they themselves hadn't been a victim of a scam. That would be something for Mr R to do as the victim. I'm confident Lloyds would co-operate with any police investigation.

So whilst I'm naturally sympathetic to Mr R having been a victim as he has, for the reasons I've set out, there isn't a reasonable basis upon which I can require Lloyds to do more than I'm setting out below 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 W the same amount of USD that they would have received had £70.51 been returned on 1 December 2020 (using the exchange rate in place on that date).

8% simple interest (yearly) should also be added to the amount paid. This is to be calculated

between the 1 December 2020 and the date of settlement. If Lloyds deducts tax from the interest award, they should provide W with evidence of what has been deducted and why so it can be claimed back if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask W to accept or reject my decision before 11 March 2025.

Richard Annandale
Ombudsman