DRN-5431265

The complaint

Ms C has complained that Lloyds Bank PLC ("Lloyds") failed to protect her from becoming the victim of an investment scam.

What happened

The background of this complaint is already known to both parties, so I won't repeat all of it here. But I'll summarise the key points and then focus on explaining the reason for my decision.

Ms C says she fell victim to a scam caused by an unregulated investment (which I'll refer to as "T") that was introduced to her by a friend. Ms C explains that due to a difficult period in her life she was looking to make some extra income, and as T had been recommended by a friend, she decided to invest. She's also explained that she was promised a 7% return on her investment and her friend told her that referring new investors attracts a 5% commission on the investments they make.

Ms C explains that she believed she was investing in the Foreign Exchange market, and she was given access to a trading portal to carry out the transactions. She communicated with individuals connected to the scam via phone, email, and messaging apps. In order to fund her investments Ms C sent payments to two different payees.

The payments Ms C made to the scam were as follows:

Date	Amount
30/06/2022	£17,075.04
01/07/2022	£16,996.69
04/07/2022	£17,061.93
06/07/2022	£13,063.93
11/08/2022	£10,167.77
11/08/2022	£14,915.25
23/08/2022	£13,225.18
23/08/2022	£13,133.70
23/08/2022	£17,507.00
23/08/2022	£14,888.77
23/08/2022	£8,762.71
31/08/2022	£17,803.10
31/08/2022	£17,811.03
Total	**£192,412.10**

In order to convince her that T was a genuine investment Ms C says she was asked to provide identification documents. She also says she did an internet search, reviewed T's website, and reviewed literature about the opportunity. She says none of this raised any concerns.

Ms C realised she'd been scammed when, in October 2022, she was told that all of her investments would be converted to a new type of cryptocurrency, which she realised was worthless. She requested to withdraw her funds at that point but wasn't able to.

Ms C says that to a bank it should've been clear that she was the victim of a scam. She says this as she was sending money to a company that didn't have a licence to operate in the UK, and the returns she'd been promised were unrealistic. She also says the way the company was run via instant messaging groups including unregulated financial advisers, would've given Lloyds cause to be concerned.

Ms C made a complaint to Lloyds. Lloyds upheld Ms C's complaint as it said although it had intervened in three of the payments, it didn't do this well enough to understand and prevent the scam from taking place. It reimbursed Ms C 50% of her losses, refunded the transfer fees she'd incurred, and paid 8% interest. It also paid Ms C an additional £100 to apologise for its shortfalls.

Ms C remained unhappy so she referred her complaint to this service.

Our investigator considered everything and agreed that what Lloyds had offered was fair. She explained that although Lloyds had made mistakes which could've prevented some of the losses, she also felt that Ms C should accept some of the responsibility for the losses as a result of her actions.

Ms C's representative sent an extensive response to the investigator's opinion explaining why it disagreed. In summary it said:

- T was operating as a scam.
- It didn't agree that Lloyds ought to have deducted 50% for contributory negligence because the investment was introduced by a friend, because the company had a CySEC license (a European license that allows forex brokers to operate across the European Economic Area) because there were investor groups which confirmed promised returns, a legitimate platform with live returns and Ms C was aware of previous returns.
- Ms C suffers from complex PTSD, severe depressive disorder, anxiety and panic attacks which affected her at the time of the scam.

Our investigator considered Ms C's representative's further points and responded. In her response she explained how, having considered everything, she wasn't persuaded Lloyds ought to have uncovered that Ms C was in fact being scammed. She explained she'd checked several sources and whilst some concerns were raised later, from October 2022 onwards, as the events Ms C complained about happened in July and August 2022 there wasn't sufficient information in the public domain to conclude the investment was a scam. She also explained that although she'd taken into account Ms C's vulnerabilities, Ms C had confirmed she hadn't made Lloyds aware of them. So she couldn't hold Lloyds accountable for not taking them into account in its dealings with Ms C.

As the complaint hasn't been resolved it's been passed to me to make a decision.

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 to disappoint Ms C but having considered everything I'm afraid I'm not asking Lloyds to pay any more than it has already offered, broadly for the same reasons as our investigator, which I've set out below.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's not in question whether Ms C authorised these payments from leaving her account. It's accepted by all parties that Ms C gave the instructions to Lloyds and Lloyds made the payments in line with those instructions, and in line with the terms and conditions of Ms C's account.

But that doesn't always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won't result in harm.

I've firstly considered whether the payments in question should've given Lloyds cause to intervene. That's to say, whether they were sufficiently out of character for it to carry out another step before following Ms C's instruction.

The first payment was for over £17,000 and was significantly larger than any other payment Ms C had made in the preceding six months. This, alongside the fact that it was made to a newly created payee, should've alerted Lloyds to the risk it posed.

Lloyds intervened before making this payment was released. It spoke to Ms C by phone, and I've listened to a recording of that call. Whilst Lloyds went some way to understand the purpose of the payment and the source of the funds, the conversation shouldn't have ended there. Lloyds should've done more to understand the reason the payment was being made, with a view to giving Ms C a warning based on the information she provided. As Lloyds didn't do this, it didn't do enough to protect Ms C from harm.

Lloyds also intervened twice on 23 August 2022 – the day on which Ms C sent five payments to the scammers. I've also listened to those calls and I agree they fell short of the providing warnings that were sufficient to prevent Ms C from harm. Again, Lloyds asked for the purpose of the payments, and in the first call it verified that Ms C hadn't been asked to move money to a "safe" account, which she confirmed she hadn't. But in neither of the calls did Lloyds probe Ms C on why the payments were being made or what they were for. If Lloyds had done this, I think it'd have uncovered the fraud and been able to appropriately warn Ms C.

If Lloyds had used effective questioning and probed Ms C's answers during these calls I'm persuaded that it'd likely have uncovered the scam that Ms C was falling victim to. I've not seen anything to suggest that Ms C wouldn't have told Lloyds the truth and based on the information she'd have provided about the company she was supposedly investing in, and the returns she'd been promised, I think Lloyds would've been concerned about this.

If Lloyds had intervened proportionately from the first payment, I'm satisfied that it could've educated Ms C and there's a chance she wouldn't have made any of the payments that she ultimately did.

I acknowledge that Lloyds has already accepted this position, so I haven't considered the points further around whether Lloyds did enough when it intervened. It's accepted that Lloyds should've done more and as it has accepted liability for all payments, there's no need to interrogate that line of enquiry any further. And as the further points Ms C's representative has raised relate to the scam itself, and Lloyds' failure to prevent it, I'm not going to address all of those points individually.

But as Lloyds believes Ms C should also bear some responsibility for her losses – which Ms C doesn't agree with – I've gone on to consider that.

Did Ms C have a part to play in the losses she made?

Despite Lloyds' shortcomings, which it accepts, I've also need to consider whether the way Ms C acted amounts to contributory negligence. That's to say, whether she could've prevented any of the losses herself, despite what Lloyds did or didn't do.

I'd like to start by emphasising that I'm sorry for the impact this situation had had on Ms C. Losing a large sum of money, as is the case here, is distressing regardless of whether it's linked to a scam or not. But having carefully considered everything I've concluded that Lloyds' decision to reduce Ms C's refund is fair, because Ms C could have done more to protect herself from the risks of financial harm.

I can see from the transactions on Ms C's bank statements that she'd been receiving payments from a cryptocurrency exchange before taking part in this investment, so it's evident this wasn't Ms C's first time investing. Given this prior experience, and the sums involved, I would've expected Ms C to take more caution before starting to invest. This may've been by carrying out research or by starting with smaller payments, in order to satisfy herself that the investment was genuine.

Ms C has said that there was a point around mid-2022 when there were signs within the group messaging chats that she was part of a scam. Although I don't know exactly when that date was, it seems Ms C continued investing past the point of her suspicions. At that point Ms C could've either stopped, or carried out some further research, but I'm not aware that she took any further action other than continuing to make payments to T. This demonstrates a lack of care on Ms C's part and it's my view that at that point, she ought to have exercised greater caution before continuing.

I've also kept in mind the way that the supposed investment was introduced to Ms C. I appreciate she says she was referred by a friend, which ordinarily may give some level of comfort, but it doesn't seem that she'd known the friend for very long, nor that they would've been in any way qualified to recommend investments. But importantly, I'm also mindful that the friend told Ms C she was incentivised to introduce new investors. With this in mind I'd have expected Ms C to show some level of scepticism, and to do sufficient checks and research into the opportunity to satisfy herself of its credibility – to dispel any potential conflicts of interest based on the financial gains available to the friend making the referral.

Had Ms C done this, whilst I acknowledge she'd likely not have seen much information in relation to T being a scam, I do think she'd have seen information that may've made her question, what her friend had told her, and consequently her decision to invest. From my own research I can see reviews from prior to July 2022 where customers, amongst other things, described a *"terrible experience […] regarding missing deposits"* and *"Worst broker in a very long time"*. Following on from this, when Lloyds intervened, it may've been better able to highlight a problem with T to Ms C if she already had some knowledge of the poor practice it had been accused of.

I've also carefully considered Ms C's points around the ongoing health challenges that she's described. I'd like to thank Ms C for sharing this personal information to allow me to fully consider her situation.

Whilst I acknowledge Ms C's health problems undoubtedly have an impact on her life, and make even simple tasks more challenging, I haven't found anything that persuades me anything Lloyds did – or didn’t do – is relevant to this. Ms C has confirmed herself that Lloyds wasn’t aware of the health issues she’s now disclosed, so it wouldn’t be reasonable for Lloyds to treat Ms C differently to how it did. I acknowledge that there’s some level of onus placed on businesses to be on the lookout for vulnerability – but based on Lloyds’ interactions with Ms C, and the prior activity on her account which shows she wasn’t new to investing, I don’t think Lloyds missed an opportunity to pick up on something and failed to do so.

Bearing the above in mind I think it’s fair for Lloyds and Ms C to bear joint responsibility for the losses in this case. I recognise that Ms C didn’t agree with Lloyds or our investigator that this should be the case, so I understand my decision will likely come as a disappointment, but I do hope my decisions sets out the reasons why I think this is fair.

For the reasons I’ve set out above, I’m not asking Lloyds to do more than it already has to put things right, so I don’t uphold this complaint.

My final decision

I don’t uphold Ms C’s complaint against Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms C to accept or reject my decision before 28 April 2025.

Sam Wade
Ombudsman