

The complaint

This complaint has been brought on behalf of Mrs M by her daughter, whom I'll refer to as 'L'.

L complains that Lloyds Bank PLC ('Lloyds') hasn't refunded the money L believes Mrs M lost to an authorised push payment ('APP') scam.

What happened

The circumstances of the complaint are well-known to both parties, so I don't intend on setting these out in detail here. However, I'll provide a brief summary of what's happened.

Between 8 February 2018 and 3 October 2022, Mrs M sent a large number of faster payments to her son, whom I'll refer to as J. L believes that J dishonestly deceived Mrs M into making the payments through fraudulent misrepresentation about what the intended use of the funds was.

At the time the payments were made, L says Mrs M was elderly and had physical disabilities, which made her vulnerable. As the payments were made in branch, L complained that Lloyds reasonably ought to have done more to identify the payments were suspicious and asked appropriate questions to verify the payments were being made for genuine reasons.

Lloyds didn't uphold the complaint. It said it hadn't done anything wrong when the payments were made and so it didn't think it was responsible for Mrs M's loss. Unhappy with Lloyds' response, L referred Mrs M's complaint to this service. L also explained that she felt Lloyds' complaint handler had made some inappropriate remarks during a phone call to discuss the circumstances of the complaint.

One of our Investigators considered the complaint, but didn't uphold it. They said some of the payments couldn't be investigated because they were made more than six years before the claim was raised with Lloyds. Our Investigator didn't think Lloyds was responsible for reimbursing the remaining payments, because they weren't persuaded L had demonstrated Mrs M had been a victim of an APP scam, nor had Lloyds acted incorrectly when the payments were made.

L didn't accept our Investigator's opinion. She said J hadn't been using the funds for the reasons he told Mrs M – namely that he needed the money for food and basic living expenses – which was fraud by false representation.

She reiterated that when the payments were made, Mrs M was vulnerable, and Lloyds didn't ask appropriate questions to ensure the payments were being made for legitimate purposes. L said the pattern of payments to J was suspicious and Lloyds needed to have done more to protect her in the circumstances, given Mrs M's vulnerabilities.

As an agreement couldn't be reached, the complaint has been referred 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.

L has made some detailed submissions in support of Mrs M's complaint. I've read and considered everything she's sent in, but I don't intend to respond in similar detail. I'm very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations, regulators' rules, guidance and standards, codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.

In broad terms, the starting position at law is that a firm such as Lloyds is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

Here, it's not in dispute that Mrs M made the disputed payments from her Lloyds account, as these were all made in person at a Lloyds branch. So, the payments were authorised and under the Payment Services Regulations, the starting position here is that Mrs M is responsible for the payments and the subsequent losses.

However, that isn't the end of the story. Good industry practice required Lloyds to be on the lookout for account activity or payments that were unusual or out of character to the extent that they might indicate a fraud risk. On spotting such a payment, I'd expect it to take steps to warn the customer about the risks of proceeding. And if a firm, like Lloyds, failed to intervene and prevent an APP scam from taking place, in some circumstances that firm could be responsible for reimbursing losses that occurred due to its failures.

So, for me to say Lloyds can fairly be held responsible for Mrs M's loss, I'd first need to be satisfied that Mrs M has been the victim of an APP scam. The Financial Conduct Authority ('FCA') defines an APP scam in its Handbook as:

“a transfer of funds by person A to person B, other than a transfer initiated by or through person B, where:

- (1) A intended to transfer the funds to a person other than B but was instead deceived into transferring the funds to B; or*
- (2) A transferred the funds to B for what they believed were legitimate purposes but which were in fact fraudulent.”*

There's been no suggestion made that Mrs M was deceived into transferring her funds to a different person. Mrs M intended to send her funds to J and that's who received her funds. So, (1) of the above definition doesn't apply in these circumstances.

To uphold Mrs M's complaint under (2) of the above definition, I'd need to be reasonably satisfied that it is more likely than not that J received her payments for a fraudulent purpose.

So, I've carefully considered whether the evidence suggests Mrs M transferred her funds for a legitimate or fraudulent purpose and whether her payments to J meet the FCA's definition of an APP scam.

The purpose of a payment forms part of the FCA's definition of an APP scam. As such, the reason Mrs M made the payments is a relevant consideration when determining whether the FCA's definition of an APP scam applies in these circumstances or not. For me to say the FCA's definition applies in this case, I need convincing evidence to demonstrate Mrs M was dishonestly deceived about the very purpose of the payments she made – i.e., that her funds were criminally obtained.

Between July 2019 and March 2023, Mrs M made 41 faster payments to J and L, totalling £225,200. The payments to L and J were for the same or similar values. The payments to J and L were made either on the same days or within a few days of each other. J received £102,600 from these payments, whilst L received £122,600. This suggests that Mrs M was gifting funds to both of her children.

In March 2023, J passed away. Whilst handling J's affairs on behalf of Mrs M, L discovered that between February 2018 and October 2022, Mrs M had sent approximately 80 additional payments to J, totalling £53,250. L has explained that when she first questioned Mrs M about the additional payments to J, Mrs M denied making them. However, after L showed Mrs M evidence of the payments to J, Mrs M said she must have made them.

L asked Mrs M why she'd made the payments to J. She says Mrs M told her that J had asked for money to buy food, and at the time the payments were made, Mrs M didn't think she could refuse. L was concerned that the amounts and frequency of the payments to J exceeded what could reasonably be spent on food, leading L to believe that J had taken advantage of Mrs M and she thinks J scammed her.

L also said that Mrs M denied making payments as frequently as she had. L says this was the first indication that Mrs M may have been unable to reliably remember what she'd done. When L pointed out that the value of the payments were too large to be for food alone, Mrs M appeared to have no concept that the value of the payments were too excessive for food purchases.

When discussing Mrs M's complaint with Lloyds, L described Mrs M as having memory problems. In the complaint to this service, L said she believed Mrs M likely had the mental capacity at the time of the payments to know what she was doing. However, L also said that Mrs M no longer had the same mental capacity to make those decisions.

There's no written evidence between Mrs M and J (such as emails or text messages) which document why the payments were requested, and Mrs M thinks the payments were likely requested on the phone. When questioned about the payments after J's death, Mrs M said the payments were for food and L says that J's bank statements indicate this wasn't what he spent the funds on.

I don't think Mrs M's recollection of the purposes of the payments is reliable, given the concerns L has raised about Mrs M's mental capacity. However, even if J told Mrs M the funds would be spent on food, these payments appear to be financial gifts from a parent to a child (something Mrs M did 41 times between February 2018 and March 2023 to the value of £225,200). So, once the funds had been sent to J, they were his to use as he pleased.

So, I'm not persuaded that J not using the funds to purchase food would mean the payments had been made by Mrs M for a fraudulent purpose, regardless of whether J intended to mislead Mrs M about his need for the funds, or what he intended to do with them once received.

The disputed payments to J, ranged between £50 and £3,500, the vast majority of which were for £1,000 or less. J wasn't a new payee and he was Mrs M's son. Multiple payments weren't made on the same day or even on consecutive days. So, there's nothing to suggest that the disputed payments differ from those undisputed payments to J and L.

Between February 2018 and March 2023, Mrs M completed eight separate high value checklists for payments she made in branch to J and L. These payments were approved by the branch manager. Although there is very limited information recorded about what was discussed with Mrs M at the time of those payments, there's nothing to indicate Lloyds had any concerns that Mrs M was being scammed or coerced into making the payments, or that she was displaying signs that she lacked the mental capacity to understand the consequences of what she was doing.

As such, I'm satisfied that Mrs M made the disputed payments of her own free will and there was no identifiable reason why Lloyds should've refused to make them. I'm not persuaded L has demonstrated Mrs M has been the victim of an APP scam, and therefore I find no reason to fairly hold Lloyds responsible for reimbursing the disputed payments Mrs M sent to J between 8 February 2018 and 3 October 2022.

I appreciate that when L spoke to Lloyds about the complaint, she found some of Lloyds' advisor's comments inappropriate and unprofessional. L also thinks that the advisor's own personal experiences have influenced their decision making on Mrs M's complaint. However, I've reached the same conclusion as the advisor – that Lloyds isn't responsible for reimbursing Mrs M – and so I can't say Mrs M has suffered any detriment as a result of this.

Also, whilst the advisor's comments may have caused L offence, I can't award compensation for the distress this caused L, as she has brought the complaint on Mrs M's behalf and it is Mrs M who is the eligible complainant and the person that would need to have been impacted by the advisor's comments.

I know L feels very strongly that Mrs M was the victim of an APP scam, orchestrated by J. I appreciate Mrs M and L are likely to be disappointed with the outcome I've reached, given Mrs M needs the money to be returned to fund the cost of her ongoing care.

I accept it's possible that J has taken advantage of Mrs M and that payments were requested in small amounts, but on a regular basis, to avoid the payments being detected as suspicious and an APP scam being identified. It's also possible that Mrs M had her own reasons for wanting to make the payments to J.

Unfortunately, J has passed away, and Mrs M's recollection of why the payments were made isn't reliable. So, I'll never know why Mrs M made the payments or what J said to her. This means I've not seen persuasive evidence to demonstrate the payments were most likely made as the result of an APP scam.

Also, I've seen no reason to suggest Lloyds shouldn't have allowed Mrs M to make the disputed payments to J, contrary to her instructions at the time. As a result, I can't fairly hold Lloyds responsible for reimbursing Mrs M in these circumstances.

My final decision

For the reasons explained above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 21 August 2025.

Liam Davies
Ombudsman