DRN-5672670

The complaint

T, a small charity, has complained Lloyds Bank plc should have done more to prevent them being a victim of a scam.

What happened

Mr and Mrs B run a small charity account in the name of T. This account is held with Lloyds.

Mr B had a relationship with a financial consultant. Mr B was advised that the Enterprise investment Scheme, a government initiative, offered him an opportunity to make impressive returns on investments in start-up companies, which would enable tax relief on any capital gains made to be claimed.

Mr B was introduced to three different start-ups. From May 2020 to December 2021 Mr B used funds from T's account to make investments by cheque amounting to £30,742. This included two cheques totalling £7,242 which Mr B paid into his own account.

It later came to light that the investments may be part of a scam and Mr B instructed a solicitor to claim refunds from Lloyds Bank.

Lloyds didn't believe they were liable. They also confirmed that cheques did not fall under the Contingent Reimbursement Model code. They also believed that as these investments were part of a current police investigation they couldn't state that a scam had been perpetrated.

Mr B's solicitors brought T's complaint to the ombudsman service.

Our investigator reviewed what had happened. She believed the cheques written by Mr B wouldn't necessarily have been identified as unusual. Even if Lloyds had intervened, she didn't believe that they'd have suggested T shouldn't have invested as at that time, there would have been nothing to show this was a scam.

Mr B has asked an ombudsman to consider T's complaint. He felt these payments should have struck Lloyds as unusual and that they should have advised that these were high-risk investments.

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.

Having done so, I've reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

I note the evidence Mr B has provided of his discussions with his financial consultant and the decision made to invest considerable funds, his own as well as T's. What I am unable to say with complete clarity is that there was a definite scam happening here.

Whilst there certainly are hallmarks of what happened that would fit into a scam scenario, a police investigation remains current and it would not be right for me – without proper detailed knowledge – to declare this was definitely a scam or not.

That said, it wouldn't be the first investments for EIS purposes that have turned out to be a scam.

As part of what happened, T received a payment from their local authority for £10,000 in May 2020. This payment enabled the first three cheques, for £5,000, £2,000 and £3,000 to be paid as investments into two start-up vehicles. A further payment of £2,000 was made in October after funds had built up within T's account. It was then credits from the local authority which enabled further investments to be made in February and March 2021.

It's generally accepted that Lloyds has an obligation to follow T's instructions to pay out on cheques written and properly executed. There's no debate here that Mr B wrote these cheques. But that's not the end of the story.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider that Lloyds should:

- have been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions are generally more familiar with than the average customer.
- in some circumstances, irrespective of the payment channel used, have taken additional steps or made additional checks before processing a payment, or in some cases declined to make a payment altogether, to help protect its customers from the possibility of financial harm.

The key here is that this obligation exists irrespective of the payment channel used. The industry has spent time and money investing in measures to slimline cheque processing whilst enabling banks to identify and pick up on potential cheque fraud. It is true that mostly this means banks check that these were written by the genuine accountholder. That isn't the issue here. That said, as numbers of cheques written decrease, they become more unusual payment instruments and high-value (for example over £5,000) cheques can more easily be identified.

Like our investigator, I'm not convinced that Lloyds ought to have recognised that these payments carried a heightened risk of financial harm from fraud. I say this because:

- whilst the use of T's account was limited, there were credits made to enable the larger-value cheques.
- None of the cheques exceeded £5,000 in value. Most of these – 8 out of the 11 cheques – were for amounts of £3,000 or less. I believe these would all have fallen under any bar for checking that Lloyds may have had in place.

That said I have gone on to consider whether, if Lloyds had carried out any intervention, this would have made any difference.

I don't believe it would have. Mr B would have told Lloyds that he was being advised by a genuine financial consultant and making investments as part of an EIS. Lloyds would have known that one of the key aspects of EIS is that these investments were speculative and known as high-risk. Mr B would have confirmed he was aware of this and therefore I can't see any warning making any difference to what happened.

I appreciate that Mr B has lost a lot of money that was in T's name but I don't believe it would be fair and reasonable to ask Lloyds to refund T.

My final decision

For the reasons given, my final decision is not to uphold T's complaint against Lloyds Bank plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 6 October 2025.

Sandra Quinn
Ombudsman