

The complaint

Mr and Mrs B complain that Lloyds Bank PLC won't reimburse them after they lost money to an investment – that they now consider to have been a scam – whereby they sent money to an account held at Lloyds.

What happened

The circumstances of this complaint are well known to both parties, so I won't repeat them in full here. But briefly, both parties accept that Mr and Mrs B sent two payments totalling £229,950 towards an investment I'll refer to as L, whereby they understood they were purchasing a holiday lodge as part of a holiday park that was due to be built. Mr and Mrs B were told the lodge would be managed on a day-to-day basis by L and that they would receive a fixed income from it, followed by a compulsory developer buyback at the end of the agreed term.

Mr and Mrs B received returns as expected for the first quarter, however Mr and Mrs B became concerned when no building work was being completed on the land. They then received no further returns and the firm has since gone into liquidation.

Believing they'd been the victims of a scam, Mr and Mrs B made a claim with Lloyds, where the receiving bank account of L was held. Lloyds considered Mr and Mrs B's complaint but didn't uphold it. It said it considered this matter a civil dispute between Mr and Mrs B, and L, as L was a genuine company that had subsequently fallen into difficulty.

Mr and Mrs B remained unhappy and referred their complaint to our service. An investigator considered the complaint but didn't uphold it. She didn't think there was enough evidence to conclude that Mr and Mrs B made the payments as a result of a scam. She also didn't think Lloyds failed in its obligations when opening, or monitoring L's account, or that it could have done more to recover Mr and Mrs B's funds once made aware of the scam allegation.

Mr and Mrs B disagreed with the investigator's view. To summarise some of their key concerns, they said that:

- Lloyds should not have permitted L's director to open a business account, based on his previous bankruptcy and multiple dissolved firms.
- Mr and Mrs B wanted to know what checks were undertaken, prior to allowing the opening of the account.
- L's director changed his name on Companies House and failed to disclose information about his previous failed businesses or bankruptcy, which they consider to be criminal offences.
- L misrepresented the investment and the risks involved, which they consider to be fraud.

As Mr and Mrs B disagreed with the investigator's view, the complaint has been referred to me for a final 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 aware that I've summarised this complaint and the responses briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focused on what I think is the heart of the matter here – which is to determine whether there is sufficient evidence to conclude that a scam has taken place (and in any event, whether Lloyds should be liable for any losses). 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 an alternative to the courts.

I'm sorry to hear that Mr and Mrs B paid a significant amount of money, believing it to be an investment, and now consider they have been scammed by the firm involved – and I can totally appreciate their strength of feeling given the sums lost and the lack of answers on where theirs – and others – funds were utilised.

As a starting point in law, Mr and Mrs B are responsible for payments they've instructed Lloyds to make. Unfortunately, there's little protection available to them for bank transfer payments, like these were.

The Lending Standards Board Contingent Reimbursement Model Code (the CRM Code), which was in place at the time these payments were made, did provide some protection to victims of APP scams. But it specifically excluded private civil disputes.

In order to determine that Lloyds is responsible for Mr and Mrs B's losses and for it to refund them, I'd first need to be satisfied, based on the available evidence, that the losses they have incurred were as a result of a scam. I'd therefore need to determine that L's reason for procuring the payments was fraudulent. This would mean being persuaded that L had criminal intent at the time it received Mr and Mrs B's payments to defraud them. This is, understandably, a high bar to meet. And while I don't dispute that it's a possibility that this is what happened here, based on everything I've seen, I don't think there is currently enough evidence to support this claim. I've explained why in more detail below.

I appreciate that Mr and Mrs B feel that this investment was advertised as safer than in fact it was and I can understand why they feel L misrepresented the opportunity to them by overstating its assets, insurance backing and cover by property redress schemes. This may well be the case, but as set out above, the test I need to consider is whether this was done with criminal intent. In other words, did L obtain Mr and Mrs B's funds, albeit via misrepresentations, but with the intent to provide the lodges agreed to, or was the promise of a lodge a guise from the outset.

While there is some evidence supporting both sides of this argument, I have to bear mind that the land in question did receive planning permission to use the land as a holiday park with over 30 lodges. I've also considered the evidence Lloyds has provided about L's account. While Lloyds has provided our service with this information, it has done so in confidence. It has provided that which is necessary for the determination of this complaint to allow us to discharge our investigatory functions. Due to data protection laws, our service can't share any information about the beneficiaries, the receiving bank accounts or any investigation and action subsequently taken. However I would like to assure Mr and Mrs B

that I have thoroughly reviewed and considered all the information provided before reaching my decision.

Having done so I don't think the account use supports an allegation that L was set up as a means to defraud. I say this based on payments from the account that would align with L's line of work. I understand that Mr and Mrs B have raised concerns about some of the recipients of these funds, what the funds were subsequently used for, or the firm's relationship with L. However, again I simply can't conclude we have enough evidence to determine something underhand here – there were a number of businesses paid with roles in line with what I'd expect a firm such as L to pay, the majority of which are still trading without apparent concerns – and so I don't think the evidence demonstrates that payments being made to L to these firms weren't genuine.

I also understand that Trading Standards have been made aware of investors' concerns and that there appears to also be a police investigation. However, I'm not currently aware of any arrests that have been made.

In a similar vein, I understand Mr and Mrs B believe L's director falsely represented himself, or omitted pertinent information about himself. Unfortunately the same issue stands that failing to disclose, or even concealing information, doesn't on its own amount to a scam, unless the purpose for doing so is to defraud. The information provided by the director on Companies House isn't deceitful or inaccurate in covering the director's identity as such - although I accept it makes it more difficult to establish a previous business history. However, even if intentional, this can be done for reasons other than with an intent to scam.

All things considered, while I'm very sorry to disappoint Mr and Mrs B, I simply can't currently conclude that it's more likely than not that L set out with criminal intent to defraud them. I don't think the available evidence supports such a finding. Legal proceedings may uncover new evidence or change the basis on which this case has been considered up until now. However, I have to decide the case on the facts and information currently available to me. Based on the evidence currently available, I'm not able to conclude there is sufficiently persuasive evidence that shows this to be a scam. And I therefore don't think Lloyds can be held responsible for Mr and Mrs B's losses.

If new material information does come to light, at a later date, then a new complaint can be made to Lloyds. But I'm satisfied, based on the available evidence that I have seen and been presented with by all parties, that this is a civil dispute.

For completeness, I've then gone on to consider whether Lloyds ought to have done more as the receiving bank when opening an account for L, as well as during ongoing monitoring of the account.

As mentioned, Lloyds was a signatory of the Lending Standards Board's voluntary Contingent Reimbursement Model (the "CRM Code") at the time these payments were received.

The CRM Code was implemented to reduce the occurrence of APP scams. It sets out, among other things, the obligations for the 'Receiving Firm' to prevent, detect and respond to the receipt of funds from APP scams in order to prevent accounts from being opened, or used, to launder the proceeds of APP scams.

The relevant considerations for Receiving Firms under the CRM Code sets out the following:

"CRM Code: Payment Journey – Receiving Firm

SF2 Receiving Firms should take reasonable steps to prevent accounts from being used to launder the proceeds of APP scams. This should include procedures

to prevent, detect and respond to the receipt of funds from APP scams. Where the receiving Firm identifies funds where there are concerns that they may be the proceeds of an APP scam, it should freeze the funds and respond in a timely manner.

Prevention

SF2(1) Firms must take reasonable steps to prevent accounts being opened for criminal purposes.

Detection

SF2(3) Firms must take reasonable steps to detect accounts which may be, or are being, used to receive APP scam funds.

Response

SF2(4) Following notification of concerns about an account or funds at a receiving Firm, the receiving Firm should respond in accordance with the procedures set out in the Best Practice Standards.”

I understand that Mr and Mrs B have posed a number of questions about the specific checks and risk assessments conducted by Lloyds, as well as what information they obtained regarding both L and L’s director. I can totally appreciate why Mr and Mrs B want answers on these points and why they may feel they should have access to such information, but unfortunately, as the information being requested relates to a third party and all information provided is given in confidence, I’m not able to provide the specifics Mr and Mrs B are hoping for. However, I have considered the evidence provided in line with the above requirements, to consider whether I think there were any failings on Lloyds’ part.

Prevention – the account opening process

To help decide whether or not a bank failed to prevent the loss of an APP victim when opening the beneficiary account, we would generally ask to see evidence that; it correctly followed its account opening procedures; carried out checks to verify the identity of the named account holder; and did its due diligence when opening the account.

I appreciate Mr and Mrs B have said they don’t think Lloyds has followed correct procedures as accounts were opened and were subsequently used fraudulently. But in the circumstances of this complaint, I’m satisfied that Lloyds carried out checks to verify the identity of the named account holder and did its due diligence when opening the beneficiary account. In terms of opening an account for someone previously made bankrupt or with previous failed businesses, this is the decision of the bank based on its risk appetite and just one factor considered when deciding whether to provide an account. However, bankruptcy alone, or running a failed business aren’t of course offences – so I can’t agree that Lloyds ought to have declined an account request on this basis, subject to other checks being completed.

Detection - Account activity

The primary duty of a bank is to follow their customer’s instructions and make payments as directed in line with the mandate – which is usually set out in the terms and conditions of the account. The CRM Code sets out that Firms must take reasonable steps to detect accounts which may be, or are being, used to receive APP scam funds. This ties in with long standing regulatory and legal obligations Banks and Building Societies have to monitor their business

relationships and to be alert to other risks - such as fraud, which would include giving consideration to unusual and out of character transactions.

I've looked at the account history for the beneficiary account and I can't say there was any account activity that I think would reasonably have stood out to Lloyds as suspicious or significantly outside of what might be expected for accounts of that type. I'm also satisfied there was no notification of fraud on the accounts prior to the payments Mr and Mrs B made into the accounts and no other red flags where it could reasonably be argued that Lloyds might have had sufficient grounds to suspect fraud and refuse execution of their customer's payment instructions.

I understand Mr and Mrs B have conducted their own research and have raised concerns regarding specific payments and their associated use. I would say it's important to remember that this is with the benefit of hindsight of there being a scam concern and even then, as I've covered, the Police have not so far made arrests. I don't think there were any reasons why, at the time of payments, Lloyds ought to have had concerns with the use of the account and therefore conducted more in-depth reviews of payments.

So, from what I've seen, I'm satisfied Lloyds has demonstrated that it has taken reasonable steps to detect accounts which may be, or are being, used to receive APP scam funds. I also don't think Lloyds ought reasonably to have had concerns where I would have expected it to have intervened, so I can't fairly say that it could have prevented Mr and Mrs B's loss in this way either.

Response to notification of fraud

The Best Practice Standards set out that a Receiving Firm must take appropriate action, in a speedy manner, upon notification of APP fraud and notify the Sending Firm if any funds remain for recovery. Here, once notified of the scam, Lloyds reached the conclusion that this was a civil dispute, not a scam, and therefore was unable to recover funds on this basis, but in any event due to the time that had passed since the payments were made I don't think recovery attempts would have had any prospects of success.

So, taking the above into consideration I'm satisfied, following notification of APP fraud, Lloyds responded in accordance with the procedures set out in the Best Practice Standards. And I don't think I can fairly say Lloyds didn't do enough to respond to the alleged APP fraud.

Therefore, while I'm sorry to disappoint Mr and Mrs B, for the reasons I've set out above I don't think there's enough evidence to support that they have been the victims of a scam and I don't think Lloyds has failed in its obligations as the receiving bank account provider.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B to accept or reject my decision before 31 December 2025.

Kirsty Upton
Ombudsman