

complaint

Miss R is unhappy with the action Lloyds Bank PLC took after she fell victim to a scam. In total Miss R transferred £11,300 to the scammer over the course of three payments.

background

On 3 September 2018, Miss R was contacted by someone claiming to be from HMRC. It turned out this person was a scammer.

Miss R says that the scammer told her that they had discovered from an internal audit that she owed HMRC £4,798 in unpaid income tax from a couple of years ago, and that if she didn't pay this amount that day she'd be arrested by the police and would be taken into custody. Miss R has said she was horrified by what she had been told and she was really frightened at the prospect she might go to prison.

Shortly after telling Miss R what she owed, and the consequences of this, Miss R says the scammer told her they would 'read out some information', so that she understood what she'd done wrong, and what needed to happen next. They told her that while they relayed this information, she should remain silent and not interrupt them. Miss R says the content of what was read out to her was very technical; and the tone of the conversation was threatening and formal.

Miss R, who was 63 and unemployed at the time, had stopped working six months earlier. And because Miss R had never been self-employed, she thought her previous employer might be responsible for any unpaid tax. She says she asked the scammer to contact her previous employer instead, but the scammer told her, in no uncertain terms, that her previous employer wasn't responsible because she was ultimately the tax payer.

Miss R has also told us that she queried how she could be sure the caller was from HMRC. The scammer offered to call her back from the number she'd be able to find on the HMRC website in order to prove they were who they said they were. Miss R found the number on the HMRC website, and the scammer called her back on that number. This reassured her she was talking to an HMRC employee.

Miss R has added that she's of a generation that has great respect for authority, and was satisfied HMRC had considerable power – in fact during her conversation with the scammer, it told her it had the ability to freeze her accounts and let the relevant authorities know about her predicament so that she wouldn't be able to leave the country, and that if she tried to, her passport would be seized.

Miss R has told us that because of her belief of the power HMRC held, the technical language the scammer used, the formal and threatening tone of the conversation, and the fact the caller's telephone number matched the telephone number on the HMRC website, she believed every word the scammer told her. So she decided to follow the scammer's instructions and pay what she thought she owed.

Miss R didn't have enough money to cover the amount of unpaid income tax she'd been told she needed to pay, but the scammer agreed to accept £3,900 for the time being (this is what Miss R thought she had in her bank account). The scammer made it clear she'd need to pay the rest at a future date though.

The scammer told Miss R not to tell her bank the real reason for the payment because if she did it would close her account. Miss R has said she was told this was because they bank wouldn't be keen on keeping her on as a customer if it found out she was in trouble with HMRC because it called into question her history and credit worthiness. They told Miss R to tell Lloyds the money was for a holiday, and the payment would be going onto a pre-paid travel card which she held with a pre-paid card company.

Payment 1 - £3,600

Miss R tried to make the payment online. She had to set up a new payee to do that. But Lloyds stopped the payment for additional security checks and asked Miss R to contact them.

Miss R made two calls, and spoke to two different call handlers in Lloyds' fraud team. This is because after the first call (at the end of which Lloyds confirmed the payment would be made), Miss R noticed the money was still in her account, so she called Lloyds back to ask if she needed to do anything else.

During the second call it transpired that because Miss R had insufficient funds in her account, she wasn't able to transfer the full £3,900 she'd promised the scammer. Lloyds told Miss R how much she could transfer, and it removed the block from the attempted payment. She ended up transferring £3,600 to the scammer online following the call, which virtually cleared her account.

Payment 2 - £4,200

Miss R was contacted by the scammer again two days later, on 5 September. Miss R has told us the scammer told her that because the funds hadn't reached them by 3.30pm on 3 September, the matter had been referred to the courts. She says the scammer told her she owed legal fees and additional money totalling £4,200. They told her to pay the money into an account which it said was an HMRC account – though she wasn't to tell Lloyds this - and that if she didn't make this second payment she'd go to prison.

Miss R didn't have any more money after having paid virtually everything she had to the scammer. She told a male friend what had happened, and her friend offered to give her the money. Together they went to a building society where Miss R's friend withdrew the funds in cash, and together they went into a Lloyds branch to deposit this cash into her account. She then attempted to make the second payment of £4,200 to the scammer in branch. Miss R has told us that during her visit to the branch the scammer insisted she stayed on the phone with them so they could listen to what she was doing. They told her to keep her phone where she would usually keep it – in this case this was inside her handbag.

The branch couldn't release the funds without first speaking with the fraud team as an alert had popped up on their system stating that further verification was needed. Miss R spoke to Lloyds' fraud team using the branch phone while she was in branch and she was told the money would be released.

Miss R has told us that later that day she was contacted by the scammer again – they told her they hadn't received the £4,200 she'd promised she'd pay them. The scammer told Miss R to check her account to confirm this. Miss R did so and realised the payment had bounced back to her account for some unknown reason, but she then managed to successfully

transfer it to the scammer online. Again, this involved setting up a new payee as the recipient account was different to the first payment.

Payment 3 - £3,500

The following day Miss R was contacted by the scammer again. She says they told her she would need to have an interview with an HMRC inspector to discuss what had happened and the potential involvement of her former employer (given her PAYE status). In order to ensure she'd turn up to the interview, Miss R would need to send HMRC £3,500 as security. She was told this money would be returned to her at her interview.

Miss R once again told her friend what had happened, and once again they went to a building society together so that he could withdraw the funds for her. They both then went into a Lloyds branch to deposit the cash into Miss R's account, and then Miss R later paid the scammer online. Miss R made the payment to the same recipient account as Payment 2.

Miss R says that at every stage the scammer threatened that if she didn't make the payment requested, a police officer would come to her house and take her into custody.

Miss R's complaint

Miss R says that in the early hours of 7 September, she woke up and had what she describes as a 'lightening moment'. She said it dawned on her that she might've been scammed, and she looked up what had happened to her online; quickly finding similar stories from people that had been affected by HMRC scams. Miss R contacted Lloyds that day to say that she thought she'd been the victim of a scam, but by the time she informed Lloyds, it was only able to recover £42.92 for her.

Miss R made a complaint to Lloyds and asked whether it was able to give her any more money back as a gesture of goodwill. She explained it was her understanding that other banks had made these sorts of payments to their customers, and she believed she hadn't been negligent as she'd checked the incoming call from the scammer was legitimate. Miss R explained she'd only recently found out about 'caller ID spoofing'.

Caller ID spoofing is where the incoming telephone number that the person receiving the call sees is not the caller's real number (and instead appears to be the number of a legitimate and trustworthy organisation like HMRC).

While Lloyds accepted Miss R was going through a difficult time, it said it wouldn't be making a refund. So Miss R referred her complaint to us.

She told us she was terrified during her dealings with the scammer. She genuinely thought she'd go to prison if she didn't comply with what the scammer instructed her to do. Miss R has said the scammer told her not to tell the bank she had been speaking to HMRC, as revealing this would mean she'd have her accounts closed. Miss R said she didn't tell Lloyds what the funds were for because she thought she was going to be arrested, and in doing this she was following the instructions of the scammer.

Miss R has also told us that the impact of the scam and the financial loss has been absolutely devastating. She has type 1 diabetes, and following the scam her blood sugar levels were affected for some time, this meant she found it difficult to eat and she felt sick regularly. Miss R, upon realising how the scam had impacted her, met with someone from

victim support a couple of times. She's told us the scam completely and totally wrecked her confidence in people and overturned her belief system – it destroyed her positive view of humanity. She's explained she is of a generation that respects authority – which is why the contact from HMRC was so powerful in the first place – and for some time she couldn't trust anyone and didn't answer the door or the telephone, leaving her very isolated.

Miss R also doesn't feel as though Lloyds empathised with her situation following the scam, particularly as it affected her financially, leading her to ask for an increase to her overdraft – she felt there was no acknowledgement from Lloyds as to what she'd been through.

One of our investigators provided Lloyds with their initial thoughts as to why he thought the complaint should be upheld. He thought the payments Miss R made were very unusual and therefore Lloyds ought to have recognised this.

Lloyds didn't agree. It said Miss R received full warnings about scam payments before the first payment was made, and she'd indicated it was a genuine payment for a long-term holiday.

Regarding the second payment, it said Miss R had indicated to its fraud team that it was to go on a pre-paid travel card. It said Miss R didn't mention HMRC or a tax bill during that conversation, and that she'd confirmed the payment was genuine. It says this payment was finally made via internet banking. And the following day Miss R made the third payment online for a 'travel card'.

It said Miss R hadn't appeared to verify the authenticity of the caller – she hadn't contacted HMRC directly and she'd relied on the scammer telling her the call would come from the telephone number stated on the HMRC website. It also said there was no clear indication as to why Miss R believed she owed what she was told she did by the scammer.

Because Lloyds didn't agree with the investigator's reasons to uphold this complaint it was passed to me to decide.

I issued my provisional decision, setting out my thoughts, on 1 November 2019.

In that decision I acknowledged that when considering what is fair and reasonable in all the circumstances of the complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and where appropriate, what I consider to have been good industry practice at the time. I remain of the view that these considerations are the relevant ones. I've set them out below.

relevant considerations

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story:

- The law recognises that a bank may be liable to its customer if it makes a payment in circumstances where it has reasonable grounds (although not necessarily proof) for believing that the payment instruction was an attempt to misappropriate the funds of its customer (known as 'the Quincecare duty').

- Regulated firms like Lloyds are also required to conduct their '*business with due skill, care and diligence*' (FCA Principle for Businesses 2) and to '*pay due regard to the interests of its customers*' (Principle 6).

And as a matter of good industry practice at the time, I consider firms should also have taken proactive steps to:

- identify and assist vulnerable consumers and consumers in vulnerable circumstances, including those at risk of financial exploitation (something recognised by the FCA in recent years and by the British Bankers Association's February 2016 report '*improving outcomes for customers in vulnerable circumstances*');
- look to identify and help prevent transactions - particularly unusual or out of character transactions – that could involve fraud or be the result of a scam (something also recognised by the British Standards Institute's October 2017 '*Protecting customers from financial harm as a result of fraud or financial abuse – Code of Practice*', which a number of banks and trade associations were involved in the development of); and
- in relation to branch transactions – follow the Banking Protocol when available.

This means that there are circumstances, irrespective of the payment channel used, where a bank should, in my opinion, fairly and reasonably take additional steps, or make additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm.

This is particularly so in light of the environment created by the increase in sophisticated fraud and scams in recent years - which banks are generally more familiar with than the average customer.

my provisional decision

Having set out the relevant considerations in my provisional decision, I made the following findings:

So taking all of this into account, in this case, I need to decide whether Lloyds acted fairly and reasonably in its dealings with Miss R when she made three payments to a scammer, totalling £11,300, or whether it should have done more than it did.

Having considered all of the evidence and arguments in this case, I'm not persuaded Lloyds did and I'll explain why.

It is not disputed that Miss R was the unwitting victim of an unpleasant and callous scam. She ultimately made three payments to the scammer:

1. A payment of £3,600 on 3 September
2. A payment of £4,200 on 5 September
3. A payment of £3,500 on 6 September

The first two payments (at least when Miss R first attempted to make them), were stopped by Lloyds for additional security checks, which meant Miss R spoke to Lloyds' fraud department (and branch staff in the case of Payment 2), before she made the payments. So

I've carefully considered what happened during these interactions in deciding whether Lloyds could've done more.

Payment 1

Miss R spoke to Lloyds' fraud department twice before making Payment 1. I've listened to these calls and I've set out a summary of what was said below because I think it's important in fully understanding the circumstances.

During the first call with the fraud team, the call handler explained the payment had been stopped 'for additional security checks'. The call handler told Miss R 'it's just for the bank to make sure it is obviously yourself making this transaction' and that the bank needed to ask her questions to verify that (which it did).

The call handler also asked Miss R what the payment was for. Miss R responded 'erm yeah it's a payment towards um a proposed um long distance holiday'. He asked Miss R who the payment was going to and Miss R replied 'erm it's the, the payment is going to er, the company name is pre pay technologies limited. The call handler asked whether it was a pre-paid travel card, and when Miss R told him it was, the call handler said:

A large black rectangular redaction box covering several lines of text.

Miss R replied 'That's right'.

I am mindful that Miss R didn't tell the call handler she was the victim of a scam – but at that stage she didn't believe she was. Miss R says, and I accept, that she believed the person who had called her from HMRC was genuine.

It is widely recognised by firms like Lloyds (and part of the thinking underpinning the Banking Protocol processes for branch transactions, but relevant to all interactions between bank staff and customers), that fraudsters often provide customers with a convincing reason to make a payment and that fraudsters often instruct customers not to discuss what has happened with the bank and to provide a cover story. And in those circumstances as a matter of good practice it may be appropriate to challenge the customer further.

It seems to me that during this call Lloyds' fraud team ought reasonably to have identified there was a possibility that something untoward might be going on and taken additional steps. The consumer was making a substantial payment to a new payee, and in doing so was virtually emptying her account (leaving her with very little money and no obvious income) for – as Lloyds understood it – the purpose of putting a large sum of money on a prepaid card for a proposed long-distance holiday at some stage in the future.

The call handler actually pointed out that lots of fraudulent payments go on pre-paid travel cards. When the call handler told Miss R this, she simply replied 'oh right' and the call handler accepted her answers at face value without testing the answers in any way beyond asking if she had a prepaid card with the pre-paid card company she had identified.

Having identified the need for additional checks and having been told the money was to be transferred to a pre-paid card for a proposed holiday, I think Lloyds ought fairly and reasonably to have made additional checks in this case.

Whilst I accept there is a balance to be struck and there are limits to the depth of questioning a firm can pursue, Lloyds could – and in my view ought fairly and reasonably – to have asked Miss R extra questions in this case, essentially to challenge the purpose of the payment and to ask for more detail, for example about the proposed holiday and the impact of the payment on her finances. I think Lloyds should also have given Miss R more information about what scams looked and felt like. That way Lloyds would be able to assure itself fraud likely wasn't taking place, and that Miss R wasn't at risk of financial harm.

I'm not satisfied Miss R was asked enough probing questions to identify whether this was or wasn't likely to be the case. I think Lloyds had an opportunity to do more at this stage, and had it done so, it is more likely than not that Miss R would have struggled with some of the details underpinning the cover story she had been given and either Lloyds would have identified, or Miss R would have realised, she was in the process of being scammed.

Miss R called the fraud team again shortly afterwards because she could still see the money in her account. She explained she wanted to check everything was ok. This time a different call handler asked her a series of questions to confirm her identity.

The call handler then asked Miss R whether the payment was going to one of her own accounts, to which Miss R replied the payment was going onto a travel card company. The call handler then asked whether the previous call handler had gone through any information with Miss R about [REDACTED] Miss R replied that he had and that 'erm yeah, er yeah that's fine'. The conversation then progressed as follows:

Call handler: [REDACTED]

Miss R: No, nothing like that at all, no.

Call handler: Just to keep me right here I do need to cover that information again and then I'll get this sorted.

Call handler: (appears to read from a script).

[REDACTED]

Miss R: I understand yes

Call handler: [REDACTED]

Miss R: yes I did yes

Call handler: [REDACTED]

[REDACTED]

Miss R: Yeah ok.

Call handler: That's ok.

Call handler: [REDACTED]

[REDACTED]

Miss R: Oh no, no, not at all, no

Call handler: [REDACTED]

[REDACTED]

Miss R: Yes, I'm absolutely certain, yes.

Call handler: That's great.

The call handler explained the previous call handler didn't get the system to the point where it could release the payment. It's clear the call handler is operating a system in the background and so there is a moment of silence. In my opinion, in order to 'fill the silence', the call handler asked Miss R:

Call handler: Are you heading away then somewhere nice?

Miss R: um yes, we are actually yes.

Call handler: Very good

Miss R: Somewhere a very long way away.

Call handler: Oh

The call handler then told Miss R that the reason the £3,900 payment didn't go through was because there were insufficient funds in her account because she had a number of pending card transactions. The call handler calculated how much she could transfer instead without going into her overdraft and when Miss R asked if she might encounter further problems offered to stay on the phone while she made the payment. Miss R explained that wasn't necessary because she would need to speak to 'the other people' to explain what was happening and that she would be doing things differently.

In my view there was quite a lot going on during this conversation, that ought to have alerted Lloyds to the fact that things weren't quite right.

As before, Miss R was attempting to make a substantial payment to a new payee, and in doing so was virtually emptying her account (leaving her with very little money and no obvious income), for – as Lloyds understood it – the purpose of putting a large sum of money on a prepaid card for a holiday to an unspecified destination a long way away.

In addition, although I do not place much weight on this, and I am mindful not to assess the calls with the benefit of hindsight, it seems to me that some of Miss R's answers and comments were slightly odd.

For example, when she was asked if she was going somewhere nice Miss R replied 'somewhere a very long way away' rather than specifying a place, whilst her comments about speaking to 'the other people' and letting them know she was would be doing things differently sounded a bit strange in the context of the payment she had told Lloyds she was making.

I accept the second call handler took extra steps compared to the first call handler, and read a scam script out to Miss R, and that Miss R assured the call handler that she had not been contacted by a third party. But I am mindful that the script was read through at pace, covered a wide range of scam types and issues, and in context of the call itself was in my view as much, or indeed predominantly, about limiting Lloyds' potential liability, rather than seeking to protect Miss R from financial harm and was unlikely to break the spell of the fraudster.

Again, in all the circumstances, I think Lloyds ought fairly and reasonably to have asked Miss R extra questions in this case, essentially to challenge the purpose of the payment and to ask for more detail, for example about the proposed holiday and the impact of the payment on her finances. I think Lloyds should also have given Miss R more information about what scams looked and felt like but in a more tailored and responsive way mindful that Miss R might be under the spell of a fraudster.

And again, I'm not satisfied Miss R was asked enough probing questions to identify whether this was or wasn't likely to be the case. I think Lloyds had an opportunity to do more at this stage, and had it done so, it is more likely than not that Miss R would have struggled with some of the details underpinning the cover story she had been given and either Lloyds would have identified or Miss R would have realised she was in the process of being scammed.

Overall, I am satisfied that Lloyds ought fairly and reasonably to have done more when Miss R attempted to make the first payment, and if it had done so it's more likely than not that Miss R would not ultimately have made any of the payments she did.

Payment 2

Miss R transferred another £4,200 to the scammer two days later. This time she not only had interaction with Lloyds' fraud team over the phone, but also with staff in branch.

I don't know what was said in branch – although it would appear (from what the branch staff said to the fraud department when they spoke), that the branch had taken steps to ID Miss R through chip and pin and her driving licence. But when the branch tried to make the payment it was directed to the fraud team for additional checks. I've listened to this call and set out broadly what was discussed below.

After asking Miss R a few general questions, including where the payment was going (a travel card), and the account (was one with her name, but not with Lloyds), the call handler told Miss R she needed to run some checks on the payment to see why it had been flagged. The call handler told Miss R she could see she had transferred money to another pre-paid travel card a couple of days ago and that the system has detected this as unusual activity.

Miss R told the call handler that she realised it was unusual. But despite this the call handler told Miss R the payment would now go through without making any further enquiries.

I would've expected the call handler to ask further questions at this point. The call handler identified two payments to two different travel cards in as many days as being unusual. And Miss R agrees. Yet she doesn't ask any further questions to find out whether Miss R might be the victim of a scam – this is what I think it fairly and reasonably ought to have done, particularly as by that stage:

- *Miss R had set up a new payee, which Lloyds understood to be a payment to a pre-paid card company for the purposes of transferring money to a pre-paid card for a future holiday.*
- *Miss R had transferred practically her entire account balance of £3,600 to that account leaving only enough money to cover the pending card payments she had already made.*
- *Miss R had deposited £4,200 in cash into her account earlier in the day and was now attempting to transfer the same amount of money – once again virtually emptying her account – to a second new payee for the purposes of transferring money to a second prepaid card for a holiday.*
- *In total if the payment went through, she would have transferred £7,800 to prepaid cards for a holiday in only 48 hours.*

Unlike the previous calls the call handler didn't provide any warnings or ask Miss R whether she'd had any unusual contact from people that might be scamming her despite the system flagging what is essentially unusual activity on her account. This third interaction Miss R had with Lloyds fraud team presented a further opportunity to block this second payment made to the scammer, an opportunity which I consider to have been unreasonably missed.

It's clear the purpose of the fraud operator call was to check that it was the customer making the payment and Lloyds did not concern itself with the unusual activity or what it might mean.

I also note that towards the end of the call, after the call handler had told Miss R that the payment would be processed, after a few seconds Miss R had a conversation with the friend that had given her the money in the background and who had accompanied her to the branch:

Miss R: They're doing it. Yeah they're doing it' (nervous/relieved laughing)

Friend:[seemingly in jest] I hope he's still on the line. He's got a tracker device on you? They might well have.

Miss R: (nervous laughing) don't make things even worse.

Inaudible

It's not clear whether the call handler or the branch staff heard this, but again if they had it would only have given them further cause to question what was happening.

And it is also relevant that Miss R was in branch, so Lloyds had the opportunity to invoke the Banking Protocol and call the police if appropriate.

Once again I am satisfied that Lloyds ought fairly and reasonably to have done more when Miss R attempted to make the second payment and asked further probing questions about the transaction and Miss R's holiday plans. If it had done so, I think it's more likely than not that Miss R would not have ultimately made Payment 2 or gone on to make Payment 3.

Payment 3

Miss R made a final online payment of £3,500 to the scammer, on 6 September. I've not seen any evidence there was any interaction with Lloyds at this point, but given a pattern, indicative of potential fraud was in my view quite clearly occurring at this point, I think Lloyds ought to have fairly and reasonably investigated this payment as well, before releasing the funds. By that stage:

- *Miss R had set up a new payee, which Lloyds understood to be a payment to a pre-paid card company for the purposes of transferring money to a pre-paid card for a future holiday.*
- *Miss R had transferred practically her entire account balance to that account leaving only enough money to cover the pending card payments she had already made.*
- *Miss R had deposited £4,200 in cash into her account and transferred the same amount of money – once again virtually emptying her account – to a second new payee for the purposes of transferring money to a second prepaid travel card.*
- *Miss R had deposited a further £3,500 in cash (24 hours after depositing £4,200 in cash), and was now looking to immediately transfer that £3,500 to the same recipient as she had transferred £4,200 to less than 24 hours before.*

And again, I am satisfied that if Lloyds had investigated Miss R's attempt to make a third payment, it should fairly and reasonably have asked probing questions which would more likely than not have prevented her from making Payment 3.

Overall

As I've previously explained, at the time the scam took place Lloyds ought to have been alive to and on the lookout for fraud.

Everything that I've identified above as being unusual ought fairly and reasonably to have raised red flags with Lloyds. Lloyds clearly was alive to and on the lookout for fraud given the conversations that took place over the phone – but in my view they didn't go far enough in finding out whether fraud was likely to be occurring in this particular case. As I've explained above, there were several indicators that Miss R could be at risk and a number of opportunities were missed.

I've thought carefully about the exact point Lloyds could've prevented Miss R from either being a victim of a scam, or continuing to be the victim of a scam. And as I've set out above,

I'm satisfied that if Lloyds had acted fairly and reasonably it could have prevented all three transactions, and Miss R would not have lost the money she did. In the circumstances I am satisfied that Lloyd's should fairly and reasonably compensate Miss R for the losses she has suffered.

In reaching my conclusions about what is fair and reasonable in this case, I have taken into account everything Lloyds has said, including its view that Miss R should not reasonably have fallen for the scam in the first place. But I don't think it would be fair to say Miss R acted unreasonably here.

I appreciate that in hindsight it might be difficult, in particular for those who haven't been affected by this type of crime or who have greater knowledge of fraud and scams as banks do, to understand why Miss R thought she owed HMRC the money the scammer persuaded her she did. But I'm persuaded that at the time Miss R was under the spell of a sophisticated and cruel scam that was intended to intimidate and frighten her. Because of this, I think it's understandable that Miss R's thoughts were less rationale and logical than might usually be the case; particularly because of the pressure and fear the scammer applied. That is why scams like this are so successful. And ultimately, as I set out earlier, that is precisely why Lloyds should fairly and reasonably have taken the steps I have found it should have taken to protect its customers from fraud.

Finally, I've considered whether Lloyds should pay Miss R compensation for the distress and inconvenience she's experienced as a result of Lloyds' actions. In considering what's fair compensation, I've specifically thought about the impact of Lloyds' actions, rather than the impact of the crime itself.

I'm persuaded that Lloyds' failure to act, and prevent financial harm, has had a lasting impact on Miss R. As I explained earlier Miss R has been left feeling unwell and isolated; and she has been distressed due to the impact on her finances. Whilst I don't doubt Miss R would have been shaken by what had happened even if Lloyds had done what I have set out it ought to have done, I don't think the impact on Miss R's health and wellbeing would've been as significant as it has been. So, for these reasons I think Lloyds should pay Miss R £500 in compensation.

responses to my provisional decision

Lloyds' response:

Following the receipt of my provisional decision Lloyds reconsidered its position and made the following key points:

Payment one

- Lloyds believes its systems successfully flagged the first payment and created an alert for further review.
- During both calls with Lloyds fraud team, Miss R was provided with appropriate warnings which were entirely relevant for the scam Miss R fell victim to, but she a) didn't pay attention to these and b) gave false information to suit the nature of the payment.
- There is a balance to be struck between identifying payments that could potentially be fraudulent and respond appropriately to these, whilst also ensuring minimal disruption to legitimate payments.
- Having reviewed the specific trigger within its fraud detection systems for this payment, Lloyds says it's important to explain that for every fraudulent payment of

this nature there are around twenty genuine payments – so only a 5% chance of the payment being fraudulent.

- Intervening more deeply on payments such as this would have a disproportionate impact on customers going about their legitimate business. Its approach is to refer all such payments so one of its advisors can speak to the customer and gain further insight, but unless they have genuine concerns following the questioning of the customer, it wouldn't be appropriate to 'frustrate' the customer's efforts to access their funds any further.
- On this occasion, the information Miss R provided to both advisors was entirely plausible and satisfied the red flags the advisors considered.
- There is an onus on the customer to tell the truth to the questions being asked.
- The fact customers are told to lie to the bank isn't lost on Lloyds which is why the warnings it provided specifically called out this point.

Payments two and three

Upon further review, Lloyds believes it had an opportunity to probe further particularly after payment one and the fact Miss R went into a branch to deposit funds onto a different pre-paid card. Lloyds says that because of this activity and the red flags, it thinks branch colleagues could've probed more around these payments and potentially invoked the Banking Protocol.

Lloyds set out that it was willing to provide a refund of £7,700 (payments two and three); pay simple interest on this from the date of payment to the date of settlement and £500 for the distress and inconvenience Miss R experienced.

Miss R accepted my provisional decision and rejected Lloyds's revised position and offer. She still feels Lloyds ought to have done more when she made the first payment to the scammer.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I remain of the view that this decision should be upheld for the reasons set out in my provisional decision, which I have reproduced above, and which now forms part of this final decision. I'm not persuaded by the further comments Lloyds has made, and I believe I've already dealt with them in my provisional decision.

However, I would like to address some of Lloyds' recent submissions.

payment one

I accept that Lloyds' systems successfully flagged the first payment. And I also accept Lloyds' fraud team provided some warnings about scams to Miss R when she spoke to them. But for the reasons I explained in my provisional decision, I think the call handlers in Lloyds' fraud team ought fairly and reasonably to have done more than they did. In my provisional decision I also explained that I thought the scam script (which contained some warnings about scams), was read through at pace and covered a wide range of scam types and issues – and I felt reading out the script was as much, or predominantly, about limiting Lloyds' potential liability rather than seeking to protect Miss R from financial harm.

While Lloyds believes the information Miss R gave to both advisors was entirely plausible, I disagree. As I explained in my provisional decision, Miss R was making a substantial payment to a new payee, and in doing so she was virtually emptying her account - leaving her with very little money and no obvious income. Based on what Miss R told Lloyds' fraud team this payment was to fund a long-distance holiday to an unspecified destination, '*somewhere a very long way away*', at some stage in the future. And in addition, the money was being paid to a pre-paid travel card – with the first call handler acknowledging that lots of fraudulent payments go on pre-paid travel cards.

Taking everything into account, I remain of the view Lloyds had an opportunity to do more at this stage – it ought fairly and reasonably to have asked Miss R extra questions to challenge the purpose of the payment and give her more tailored information about scams. Without doing this, I'm not persuaded that in this particular case Lloyds was able to assure itself fraud likely wasn't taking place, and that Miss R wasn't at risk of financial harm.

I do accept there is a balance to be struck in identifying payments that could be fraudulent, and there are limits to the depth of questions Lloyds can ask customers such as Miss R. But in this case, I don't think Lloyds did enough. And I can't fairly agree that some extra questioning, the nature of which I've set out in this decision, would disproportionately affect its customers who aren't the victims of fraud.

payments two and three

I'm pleased Lloyds has accepted it ought to have done more before processing payments two and three. It says that due to the behavioural activity and red flags by this point, branch staff could have probed more around these transactions, and potentially invoked the Banking Protocol.

I don't disagree that the branch staff could have done more when Miss R attempted to make the second payment. But for the avoidance of doubt, for the reasons I set out in my provisional decision, I'm satisfied the call handler from Lloyds' fraud team - who spoke to Miss R when she attempted to make payment two - should have done more. As I explained in my provisional decision, the call handler identified Miss R had transferred money to another pre-paid travel card a couple of days ago, and that the system had detected this as unusual activity. Miss R even confirmed to her that she realised this was unusual. But the call handler told Miss R the payment would go through without making any further enquiries.

my final decision

For the reasons I've given, I uphold Miss R's complaint. I don't think it was fair or reasonable for Lloyds Bank PLC not to refund the losses Miss R suffered as a result of this scam.

I require Lloyds Bank PLC to:

- Refund Miss R's account with £11,257.08 (this takes into account the amount recovered from the scammers' accounts); and
- Pay simple interest on the payments calculated at 8% a year from the date of each payment to the date of settlement
- Pay Miss R £500 for the material distress and inconvenience she experienced.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 10 January 2020.

Katie Doran
ombudsman