

The complaint

Miss D complains that Lloyds Bank PLC ('Lloyds') won't refund the funds she lost in a scam and is charging interest on a loan taken out on the instructions of a scammer.

What happened

What Miss D says

Miss D says that her brother received a call on 7 July 2022 which he now knows followed a fake message from a delivery company. The caller told Miss D's brother that he was from the fraud department of a bank I'll refer to in this decision as bank A. Miss D's brother was told his account had been compromised when someone tried to take out a loan in his name. Bank A was conducting an investigation as there was a suspicion that a member of staff at bank A was involved. Miss D's brother made payments from his account, as instructed by the caller.

Miss D lives in the same house as her brother and was aware of some of the calls. Her brother told her that her accounts might be at risk because he had sent funds to her from his compromised account. Miss D also spoke to the caller, who didn't know any personal details about her, and asked who she had accounts with and for balance details. Miss D explained she had accounts with five banks, including bank A and Lloyds. The caller led Miss D to believe all her accounts were at risk and said she needed to transfer her funds to dummy accounts which had been created as part of bank A's investigation. The transfers would show whether staff were tampering with the payments.

Miss D was advised to take out a £10,000 loan with Lloyds. She completed a loan application online on which she said the loan was for home improvements. The loan credited Miss D's account on 7 July 2022 and was transferred to an account in Miss D's name with another bank on the same day. Miss D also made a £2,000 transfer from her Lloyds account to a third party personal account on 8 July 2022.

Miss D says that later that day she received a voice message from another bank's fraud department about suspected fraudulent payments and became confused. After contacting the FCA and Action Fraud Miss D opened fraud claims with all the banks involved. She contacted Lloyds to report the scam on 9 July 2022.

What Lloyds say

In respect of the loan, Lloyds said this was granted based on Lloyds' existing relationship with Miss D and the information supplied by her. It isn't unusual for loan funds to exit an account soon after they are paid in, and the transfer was to an account in Miss D's name. Lloyds also say it provided Miss D with a warning when she transferred the loan funds out of her account. So, Lloyds didn't have any concerns or intervene.

Lloyds is signed up to the Lending Standards Board Contingent Reimbursement Model Code (CRM Code) and considered Miss D's claim in respect of the £2,000 transfer under it. It said it provided a warning message and asked if Miss D still wanted to process the payment. Lloyds also said it tried to recover Miss D's funds but was only able to recover £55.06, which was credited to Miss D's account.

Miss D was unhappy with Lloyds' response and brought a complaint to this service.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. She said that Lloyds could fairly rely on the reasonable basis for belief exception to reimbursement in the CRM Code and didn't need to provide Miss D with an effective warning. The investigator noted that Lloyds took longer than she'd have expected to notify the receiving bank of the fraud claim. She obtained additional information to see if the delay affected the recovery attempt and established that all but £55.06 that was returned to Miss D was used up very soon after it entered the receiving account. Turning to the £10,000 loan, the investigator said that this was being considered as part of a complaint against a different bank Miss D sent funds from as part of the same scam.

Miss D was unhappy with the investigator's findings and asked for a final decision, so her complaint has been passed to me to consider.

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 hear about this cruel scam and the impact it has had on Miss D. I recognise she has lost a substantial sum of money and is still required to make loan repayments.

In deciding what's fair and reasonable in all the circumstances of a 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 be good industry practice at the time. Having done so I have reached the same outcome as that of our Investigator and for broadly similar reasons.

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. But Lloyds has signed up to the CRM Code and also have a longstanding obligation to be on the lookout for unusual and out of character transactions which might indicate their customer is at risk of financial harm from fraud.

The CRM Code only applies to faster payments to another person in certain circumstances, so it isn't relevant to the transfer of the £10,000 from Miss D's Lloyds account to her account with another bank (as it isn't a payment to another person). It does apply to the £2,000 transfer to the fraudster though. When Miss D transferred the loan from her Lloyds account she chose the 'move my money' payment reason and was presented with a warning that said,

“we'll never call to tell you to move your money to another account

If you get a call like this, it's a scam.

Fraudsters can even copy our telephone number.

Don't believe them, hang up the phone.”

So I consider Lloyds took steps to warn Miss D about the type of scam she fell victim to. I've also taken into account the fact Miss D applied for the loan to complete house renovations, which isn't an unusual reason for borrowing money. The loan funds left Miss D's account as soon as they were credited – which also isn't unusual. Given that the loan funds went to an account in Miss D's name, so she continued to have control over them, I consider Lloyds went far enough in giving Miss D an on-screen warning. The loan was taken out by Miss D and so she continues to be responsible for it.

The CRM Code requires firms to reimburse victims of APP scams like this one unless it can establish that it can rely on one of the listed exceptions set out in it. Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that:

- The customer made payments without having a reasonable basis for believing that: the payee was the person the customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate.

There are further exceptions outlined in the CRM Code that do not apply to this case.

Taking into account all of the circumstances of this case, including the characteristics of Miss D and the complexity of the scam, I think the concerns Lloyds has raised about the legitimacy of the transactions Miss D made are enough to support its position that it can rely on an exception to reimbursement. I don't think she had a reasonable basis for believing the person she transacted with was legitimate. In reaching this conclusion I've considered what steps Miss D took to reassure herself about the legitimacy of the transactions, and whether it was reasonable for her to proceed with the payments.

- Although Miss D has provided evidence to show that bank A's number was spoofed, she has also said that not all calls were from the spoofed number. The number is also for bank A's complaints department rather than its fraud team. Miss D has said she didn't complete any other checks.
- The scammer spoke to Miss D after he had spoken to her brother and established that Miss D's brother transferred funds to her from his account. But Miss D has an account herself with bank A and didn't question why bank A wouldn't reach out to her directly.
- Miss D didn't question the fact the scammer didn't know any personal details about her even though he said he was from a bank she had an account with.
- It didn't make sense for Miss D to move funds from her Lloyds account to try to catch a fraudster at bank A, a totally unrelated bank. There's no evidence that Miss D questioned this or understood how the different banks were meant to be linked.
- Before she transferred funds from her Lloyds account Miss D had already made transfers from other accounts she held. The scammer told Miss D to lie to one bank when it intervened. I consider Miss D ought reasonably to have had serious concerns about being asked to lie to her bank.
- Miss D transferred funds to a personal account and had already transferred funds from other accounts to different individuals. I think she ought reasonably to have had concerns about this.
- By the time Miss D made the payment from her Lloyds account she'd had the opportunity to reflect on what she'd been told as the scam started the day before. Miss D hasn't suggested that she was told to act urgently.

The CRM Code also sets out standards that firms are required to meet. Those requirements include the provision of what the CRM Code defines as an 'Effective Warning' when a firm identifies an APP scam risk in relation to a payment. In this case I don't consider Lloyds ought reasonably to have identified an APP scam risk. I say this because the transaction was low in value and so wouldn't have stood out. This means I don't consider Lloyds was required to provide an Effective Warning or, given my findings above that the reasonable basis for belief exception can fairly be applied, reimburse any of Miss D's lost funds.

I'd expect Lloyds to contact the bank that received Miss D's £2,000 promptly to try to recover them. As the loan funds went to an account in Miss D's name, I wouldn't expect Lloyds to do anything to try to recover these funds. I've seen evidence to confirm that Lloyds didn't contact the bank that received the £2,000 scam payment as quickly as I would have expected. Because of this the investigator obtained evidence from the receiving bank to

establish if further funds could have been recovered if Lloyds had acted more quickly. This evidence shows that the majority of the funds were removed very quickly so that by the time Miss D contacted Lloyds to report the scam all that was left was £55.06. This sum has been returned to Miss D.

Overall, although I am sorry to hear about Miss D's loss, I can't reasonably ask Lloyds to do anything more.

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 7 March 2024.

Jay Hadfield
Ombudsman