

## The complaint

Mr H complains that Lloyds Bank PLC won't refund him the money he lost after he fell victim to an authorised push payment ("APP") scam.

In bringing his complaint to this service Mr H is represented, but for ease of reading I'll refer to Mr H throughout this decision.

## What happened

The details of this complaint are well known to both parties, so I won't repeat everything again in detail here.

But in brief summary, in 2022 Mr H was contacted, through a social media messaging application, regarding a job opportunity. The job involved completing online tasks to provide positive online reviews for hotels.

Mr H has said he was added to a members group and after several weeks of seeing members sharing screen shots, he decided to make further enquiries and proceed with the opportunity. He added that he waited quite some time before getting involved, to make sure that this wasn't a short-lived success.

The opportunity required Mr H to deposit money to the company, in order to 'reserve' tasks that he had to complete. These payments were facilitated through Mr H making payments to a cryptocurrency wallet, that he held in his own name, from which funds were then sent onto the company.

Mr H believed the job opportunity was real. He's explained that this was because he'd seen others in the members group be successful, was given access to a professional looking online portal and was given a starting balance of £100 without needing to make a deposit. Alongside this, Mr H said he'd looked into the company he thought he was dealing with and had seen that it was a legitimate travel agency. He's also said he was able to contact a customer support function with any problems he may have.

As well as this, Mr H has said he could freely withdraw the commission he was earning multiple times (back into his cryptocurrency wallet, which he reinvested). Overall, Mr H has said it was very convincing and he had no reason to believe he wasn't dealing with a legitimate company.

But unknown to Mr H at the time, he was dealing with fraudsters and the payments he was making were ultimately ending up in accounts the fraudsters controlled. A breakdown of the transactions Mr H made is listed below:

5 January 2023	@	11:13	card payment to Binance	£200
5 January 2023	@	11:37	card payment to Binance	£950
5 January 2023	@	17:07	card payment to Binance	£5,000
5 January 2023	@	17:11	faster payment to Binance	£5,000 (blocked)
5 January 2023	@	17:12	faster payment to existing payee	£9,000

5 January 2023	@	18:49	card payment to Binance	£310
5 January 2023	@	18:49	card payment to Binance	£310
5 January 2023	@	18:49	card payment to Binance	£150
5 January 2023	@	18:49	card payment to Binance	£150
5 January 2023	@	18:49	card payment to Binance	£100
5 January 2023	@	18:49	card payment to Binance	£950

Mr H realised he'd been scammed when he started to get pressured to make larger payments, following which the platform closed.

Mr H raised the matter with Lloyds who looked into his complaint, but didn't uphold it. In summary, it didn't consider it made sense for anyone to be asked to make payments to an employer, in order to get jobs to do. Overall, it didn't think it was liable to refund Mr H the money he had lost.

Unhappy with Lloyds' response, Mr H referred his complaint to this service. One of our Investigator's looked into things, but didn't uphold the complaint. In summary, it was our Investigator's view that even if Lloyds had contacted Mr H about the payments it wouldn't have made a difference, due to how deeply involved Mr H was in the scam.

Mr H didn't agree with our Investigator's view. As agreement couldn't be reached, the complaint has been passed 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.

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.

To begin with, Lloyds has a primary obligation to carry out the payment instructions its customers give it. As a starting point, a customer will therefore be assumed to be liable for payments they have instructed to be made. There is no dispute that Mr H authorised these payments, albeit having been deceived into believing he was sending them for the purpose of a job opportunity. On the face of it, he is therefore liable for the resultant losses.

However, there are circumstances where it might be appropriate for Lloyds to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud. This is often a finely balanced matter, and Lloyds has a difficult balance to strike in how it configures its systems to detect unusual activity or activity that might otherwise indicate a higher than usual risk of fraud.

In the circumstances of this case, I think it is finely balanced as to whether the activity that took place on Mr H's account, during the scam, was sufficiently unusual and out of character to give Lloyds cause for concern that he was at risk of fraud. Having reviewed the first two disputed transactions (for £200 and £950), I don't think these were enough in themselves to have warranted an intervention by Lloyds, as they were not so unusual as to amount to a significant deviation in the way the account was normally run.

Lloyds did block a payment for £5,000. However, by the time Mr H was making another payment for £5,000, a few minutes earlier, it's arguable that this marked a significant increase in spending, to the point where Lloyds could have intervened and questioned Mr H

before allowing the payment to be processed. On the one hand the payment was large in value. But on the other hand, looking at Mr H's account history, the payment was being made to an existing payee, to whom Mr H had made multiple payments to in the months leading up to the scam: and it wasn't uncommon for him to make multiple payments to the payee on the same day. And whilst cryptocurrency can be utilised by scammers, I would not expect Lloyds to be on notice about every payment that goes to the platform Mr H was using, as many people use it for legitimate purposes – as Mr H seems to have previously done.

For much the same reasons, it is also not a given that Lloyds should have been expected to intervene when Mr H made the faster payment for £9,000 to his friend. Looking at statements for Mr H's account, I can see that it wasn't uncommon for him to make and receive payments from this payee. I think it's reasonable that the well-established history of payments from and to the third party would justify treating this activity as being lower risk. So while I recognise it was a larger payment, I don't think it's unreasonable that the size of the payment was countered by the fact that it was to a longstanding payee.

But in any event, in the individual circumstances of this case, even if I considered Lloyds should have intervened further than it did and asked further questions about the nature of the payments Mr H was making, I'm not persuaded it would have likely stopped him from proceeding or have ultimately prevented his loss.

Had Lloyds have intervened I would have expected it to have asked proportionate questions around the purpose of the payments. But given what Mr H has told us, I think he would have been able to answer any questions Lloyds could reasonably have asked positively and persuasively. I think it more likely than not that he would have explained that he was dealing with a legitimate company, that he'd researched and importantly that he'd been able to freely withdraw and gain access to his commission.

I also think it's fair and reasonable to say that in the circumstances of this case, Mr H wouldn't have been deterred solely by the fact he was dealing with cryptocurrency. I say that as he's told us he'd previously invested through this channel with not an insignificant amount of success. Overall, I'm not persuaded the answers he would have given would likely have reasonably revealed to Lloyds that he may have been at risk.

I've also thought about whether Lloyds could have done more to recover the funds after Mr H reported the fraud, as in some circumstances the money can be recovered via the bank raising a chargeback dispute. However, in these circumstances, Mr H used his debit card to pay a legitimate crypto-exchange platform before the funds were subsequently transferred on to the scammer. So, he wouldn't be able to make a successful chargeback claim in these circumstances because the company he paid had provided the services as intended (i.e. the purchase of cryptocurrency). And in respect of the faster payment he made to his friend, we know from Mr H's submissions that his friend moved this money into Mr H's cryptocurrency wallet, so there wouldn't have been any opportunity for those funds to be recovered either.

Mr H has told us about his circumstances around the time of the scam and that, due to a family illness, it was a very distressing time and he was thinking irrationally. I'm sorry to hear about this and I understand this must have been a difficult time. But the evidence I've seen doesn't suggest that Lloyds had been notified of any vulnerabilities or needs prior to the scam, such that it should have known to take additional steps to protect Mr H.

It's very unfortunate Mr H has lost this money in this way, and I understand the whole experience has been deeply upsetting. I do have a great deal of sympathy for him. He was the victim of a cruel scam designed to defraud him of his money and I appreciate that he's

lost a significant amount because of what happened. But in the circumstances, I don't think I can fairly or reasonably say Lloyds should have done more to prevent Mr H from losing this money. So, I don't think it would be fair for me to ask Lloyds to refund the loss.

### **My final decision**

My final decision is that I don't uphold this complaint against Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 8 March 2024.

Stephen Wise  
**Ombudsman**