DRN-4309730

The complaint

Mr G complains about Lloyds Bank PLC.

He says that Lloyds didn't do enough to protect him when he became the victim of a scam and would like Lloyds to refund him the money he lost as a result.

What happened

Mr G connected with a woman via Tinder and chatted with her via WhatsApp, Skype and Zoom.

The individual then introduced Mr G to her uncle who she said was a trader dealing in cryptocurrency and could show Mr G how to invest and make money.

Mr G thought he was dealing with a professional and reputable trader and was persuaded to start investing. Mr G then downloaded AnyDesk and opened a crypto wallet in order to facilitate the investment.

Mr G made five payments totalling £40,912.71.

However, Mr G had fallen victim to a scam, and lost his money. He complained to Lloyds, but it didn't uphold his complaint.

Unhappy, he brought his complaint to this Service. Our Investigator looked into things but didn't think that the complaint should be upheld.

Mr G asked for an Ombudsman to make a final decision, so the complaint has been passed to me.

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 decided not to uphold this complaint for broadly the same reasons as our investigator. I know this will be disappointing for Mr G, so I'll explain why.

It isn't in dispute here that Mr G has been the victim of a scam and has lost money as a result. However, even when it is clear that a scam has taken place, and an individual has been tricked out of their money, it doesn't necessarily follow that a business will need to refund the money that has been lost.

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 having been good industry practice at the time.

In broad terms, the starting position at law is that a banks, electronic money institutions (EMI's) and other payment service providers (PSP's) are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (PSRs) and the terms and conditions of the customer's account.

Mr G authorised the payments in question here – so even though he was tricked into doing so and didn't intend for his money to end up in the hands of a scammer, he is presumed liable in the first instance.

But this isn't the end of the story. As a matter of good industry practice, Lloyds should also have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction

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

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- 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 (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

In this case, I need to decide whether Lloyds acted fairly and reasonably in its dealings with Mr G when he authorised payments from his account or whether it could and should have done more before processing the payments.

Mr G has explained that Lloyds did intervene in the payments he was making – and that he was honest about what he was doing, so it is unclear how a scam wouldn't be identified. He also says that there was a language barrier which meant that he would not be able to fully understand warnings.

Lloyds has provided 21 calls that it had with Mr G about the payments he was making, which I have listened to.

While I acknowledge that English is not Mr G's first language – I don't agree that there was any language barrier which Lloyds should have identified as putting Mr G at an enhanced risk of being scammed. And I also don't agree that he was open and honest about what he was doing.

Throughout several of the calls, Mr G expressed dissatisfaction at being unable to seamlessly access his money and spend it as he wished – he was asked on multiple occasions if anyone else was helping him, and explained he was doing everything off his own back.

A particular call Lloyds has provided is almost an hour long – and took place when Mr G had been told to visit the branch after he had tried to make his final transfer of £25,000.

During this call, the Lloyds representative again asked Mr G if he was acting on his own, or had been introduced to a broker – he again said no. The representative also asked Mr G if the money would be staying in his own crypto wallet or would be moved on elsewhere. Mr G said the money would be staying in his own wallet – but this wasn't the case either. He was also asked if he had downloaded any software which Mr G denied doing.

The representative went on to explain how crypto scams work – and told Mr G that a block was being placed on his account for 24 hours for Mr G to carefully consider what he was doing.

Mr G then went on to continue with the payment, even though the circumstances Lloyds had explained to him were very similar to what he was experiencing.

So, I can't say that Lloyds could have done any more than it did to try and prevent the loss Mr G has suffered.

I am very sorry for the situation Mr G now finds himself in. He has been the victim of a cruel scam which has resulted in a big financial loss. However, the loss he has suffered is due to the scammer themselves – and not Lloyds.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 12 April 2024.

Claire Pugh
Ombudsman