DRN-4372105

The complaint

Mr A 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 has lost as a result.

What happened

In September 2021, Mr A met a third party on Pinterest. The communication moved to WhatsApp and Skype, and Mr A believed that he was entering into a romantic relationship.

Unfortunately, the individual was a scammer targeting Mr A.

The scammer told Mr A that they needed to renovate their house in order to sell it. Between November 2021 and December 2022, he sent 56 payments to the scammer via a cryptocurrency exchange, totalling £31,696.87.

Mr A began to become suspicious when the scammer began deleting WhatsApp messages. He complained to Lloyds in January 2023.

Lloyds didn't uphold his complaint, so Mr A brought his complain to this Service.

Our Investigator looked into things. Initially, they thought that the complaint shouldn't be upheld, then upheld in part – however after this, Lloyds provided a phone call that took place between it and Mr A.

After reviewing the call, they didn't think that the complaint should be upheld anymore.

Mr A 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 A, especially as he has been given different answers by this Service already, so I'll explain why.

It isn't in dispute here that Mr A 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 A 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 A when he authorised payments from his account or whether it could and should have done more before processing the payments.

Having compared Mr A's account activity prior to the scam taking place, I agree with our Investigator that when Mr A made his nineth payment on 18 November 2021, the pattern of Mr A's account activity had altered to a point where Lloyds should have got in touch with him to check that everything was ok, in an attempt to prevent him from financial harm.

However, for me to uphold Mr A's complaint, I would also have to find that such an intervention would have made a difference, and I'm afraid that I don't think that it would. I'll explain why.
Lloyds has provided a copy of a phone call that it had with him in November 2022 when it blocked a payment Mr A was trying to make.

In this call, Lloyds questioned Mr A about what he was doing – and he told them that he was making payments to crypto for his own purposes. He said that there was no one else involved, and that he himself had experience in fraud and scams. I don't know why Mr A chose to conceal the truth of what he was doing – it's possible that the scammer (whom

Mr A believed he was in a relationship with) told him to do so. But as Mr A wasn't forthcoming with what was really going on, I think this impeded Lloyds ability to uncover the scam.

I think its likely that if Mr A had told Lloyds he was sending money to an individual for home improvements via crypto, this would have been a red flag to Lloyds as an unusual way to make payments to someone for this purpose – even if they lived overseas. I think that Lloyds would have questioned him further about the nature of the relationship and how it began and given him a warning that it sounded very much like a scam.

I know that Mr A thinks the intervention should have happened sooner – and I agree that this would have been preferable. But I can't agree that Mr A would have told Lloyds anything more than it told him when it did intervene. Mr A says himself that he considered the scammer his partner – and had already satisfied himself that she was genuine.

And while I don't agree that Mr A did enough research into what he was doing or who he was paying – I don't doubt that he was in full belief that he wasn't being scammed. And so, I don't think that an earlier intervention would have made a difference here.

I am very sorry for the situation Mr A now finds himself in – and I don't blame him for what happened. He has been the victim of a cruel and manipulative scam which I know has left him financially and mentally drained. 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 A to accept or reject my decision before 10 April 2024.

Claire Pugh
Ombudsman