

The complaint

Mr N 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

Mr S was looking online to try and find an investor for his business. He found an advert online in the Sunday Times for a broker who put businesses in contact with potential investors.

Mr S was then introduced to an individual the broker told him was interested in investing, and they met in person in Amsterdam to discuss the deal – which was paid for by the broker. At the meeting, identity documents were shared between the parties.

As part of the deal, Mr S was asked to deposit money into his own cryptocurrency wallet, as proof he would be able to pay back the investor.

Mr S made three payments as part of the scam of £1,000, £8,000, and £16,500.

Mr S says that the money was not meant to be moved on from his crypto wallet. However, Mr S's crypto wallet was then emptied. Mr S says that he doesn't know how this happened – but says that the scammers must have gained access somehow as he did not make the payments.

Once Mr S noticed the account had been emptied, he realised he was the victim of a scam and had lost the money he paid. He complained to Lloyds as he says that it should have prevented the loss and warned him about making the payments.

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

Mr S 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.

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 bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (PSR's) and the terms and conditions of the customer's account.

Mr S 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 made 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 S when he authorised payments from his account or whether it could have done more before processing them.

Having considered the first two payments, I am not persuaded that Lloyds should have stepped in and questioned Mr S about the payments he was making.

I say this because I don't consider they payments sufficiently unusual, uncharacteristic or suspicious to reasonably say Lloyds should not have processed them without first getting in touch with Mr S to ensure everything was ok. Mr S had made similar sized payments in the run up to the scam, and I don't think that they would have stood out as being suspicious to Lloyds at the time.

I do think that the third payment of £16,500 should have prompted Lloyds to take a closer look at things and contact Mr S to check everything was in order.

However, for me to uphold Mr S'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.

Had Lloyds contacted Mr S at the time he made the third payment, I think he would have told it the same as he has told this service – that the payment was part of a business relationship he was entering into, and that he had met the individual in person.

I think he would also have told Lloyds that he had opened the crypto wallet himself – and that no one else had access to it, and he had used it previously. Mr S also hadn't allowed anyone else to access his wallet which he had full control over, and the intention was to hold the funds in the wallet and not to transfer them on anywhere else.

Had Mr S explained this to Lloyds, I don't think that the scam could have been uncovered – and while I understand that Mr S's representatives say that Mr S should have been given a warning that it could be a scam as Mr S was buying crypto – not all payments made to crypto are a scam. And I don't think that any of the usual warnings such as being contacted out of the blue, allowing access to your devices – or being told that you would get unrealistic returns on your investment would have applied in this situation, given what Mr S has told us happened.

I am very sorry for the situation Mr S now finds himself in – he has been the victim of cruel and calculated scam, and as a result has lost a substantial amount of money.

But the loss here has been caused by the scammer themselves – not Lloyds. And I can't ask Lloyds to refund Mr M when I don't think that it did anything wrong.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 20 March 2024.

Claire Pugh
Ombudsman