

The complaint

Mr and Mrs C complain that Lloyds Bank PLC will not refund the money they say they lost to a scam.

What happened

Mr C was contacted by someone offering investment opportunities. They introduced him to a company I'll call 'HS' for the purpose of this decision. HS had several different building projects they were providing investments for in the form of loan notes. Mr C received various documentation from HS and decided to invest £20,000, he paid this from he and Mrs C's Lloyds account on 11 December 2018. A few months later Mr C decide to invest some more, and he made a further payment for £40,000 on 12 March 2019. These payments were made via cheque.

Mr C received some small returns on his investment in December 2019 and April 2020, but became concerned when these payments stopped and he was no longer receiving any correspondence from HS. Eventually, following significant delays, issues with income and repaying investors, HS went into administration in December 2021.

Mr C felt he had been the victim of an investment scam and that HS set out to defraud him. He raised a scam claim with Lloyds but received no response to that claim. As a result, he referred the complaint to our service.

Our Investigator looked into the complaint, but having done so they did not think Lloyds had failed in its obligations to Mr and Mrs C. So, they did not recommend that Lloyds refund their loss.

Mr and Mrs C's representative disagreed with the findings. As an informal agreement could not 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.

It isn't in dispute that Mr C authorised the payments in question. Because of this the starting position – in line with the Payment Services Regulations 2017 – is that he is liable for the transactions. But he says that he has been the victim of an authorised push payment (APP) scam.

Lloyds has signed up to the voluntary CRM Code, which provides additional protection to scam victims. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam (except in limited circumstances). But the payments that are the subject of this complaint were made prior to the CRM Code coming into force and, in any case, were made by cheque. So, the CRM Code does not apply.

Because of this, Mr and Mrs C are not automatically entitled to a refund. But the regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams.

Taking the above into consideration, I need to decide whether Lloyds acted fairly and reasonably in its dealings with Mr and Mrs C, or whether it should have done more than it did.

Based on the evidence available to me, it appears Mr C was intending for the funds to be invested in 'loan notes' relating to building projects. He then expected to receive returns on the maturity of his investment of 12%. The paperwork he received prior to investing appeared to be professional and detailed, and I can see HS was on Companies House and had been incorporated since 2011.

I've also seen evidence that building projects were completed by HS. So, given that HS appeared to be a legitimate company involved in legitimate building projects I see no reason why Mr C would not have thought this was a legitimate investment at the time he made the payments. And so, if Lloyds had challenged him about what he was making these payments for, I do not think it likely that Lloyds would have identified any concerns that Mr C could be the victim of a scam. I therefore don't think it is reasonable to say that Lloyds could have prevented Mr and Mrs C's loss here. It follows that I won't be asking Lloyds to refund that loss to them.

I also don't think that Lloyds could have done anything to recover these funds from the recipient account. Given that Mr C did not raise his concerns about these payments until several years after they were made, and by which time HS had gone into liquidation, I think it is extremely unlikely that any funds would have remained for recovery.

I know that Mr and Mrs C have lost a very significant amount of money here, and I have great sympathy for the situation they have found themselves in. But I've not seen anything to make me think it would be reasonable to hold Lloyds liable for that loss.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C and Mr C to accept or reject my decision before 19 December 2024.

Sophie Mitchell
Ombudsman