

The complaint

Mrs B is unhappy that Lloyds Bank PLC (Lloyds) won't refund her the money she lost after she fell victim to an Authorised Push Payment (APP scam).

What happened

The background to this complaint is well known to both parties, so I won't repeat it in detail here, but in summary I understand it to be as follows.

In or around September 2023, Mrs B was looking to earn some extra income. Around two years earlier Mrs B had been contacted, through social media, by somebody regarding an investment opportunity. Mrs B has said in the meantime she'd seen lots of people commenting on how they had made money and saw constant advertisements endorsing the investment, so she thought this was a good way to earn the extra income she was looking for.

Mrs B expressed an interest and was then contacted by somebody. She was told the investment was in cryptocurrency, that she could earn guaranteed profits, and that if she invested £700 she would realise a profit of £20,000.

But unknown to her at the time she was dealing with fraudsters and she was falling victim to an investment scam. Mrs B made an initial payment for £700 and was told, on the same day, that she had made a profit of around £25,000. She asked to withdraw this money, but was told she'd need to pay a withdrawal fee to do so, which she went ahead and did. Mrs B made the following two faster payments from her Lloyds account, to an account that the fraudster controlled;

18 September 2023	£700
18 September 2023	£2,456

Mrs B realised she'd been scammed when she was still unable to withdraw her money and was asked to pay more.

Mrs B raised the matter with Lloyds. It considered the claim under the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code), but it didn't think it was liable for the money Mrs B had lost. In summary, this was because it didn't feel Mrs B had a reasonable basis for believing that this was a genuine investment and it didn't think it had made any errors in processing the payment.

Unhappy with Lloyds response, Mrs B brought her complaint to this service. One of our Investigators looked into things but didn't think the complaint should be upheld. In summary, this was because she thought there was enough going on that ought to have led Mrs B to have had some concerns about the transactions she was making and that she should have taken further steps before making the payments. Alongside this, she didn't think the scam risk would have been apparent to Lloyds at the time the payments were made.

Through her representatives, Mrs B 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.

When thinking about what is fair and reasonable in this case, I've considered whether Lloyds should have reimbursed Mrs B under the provisions of the CRM Code and whether it ought to have done more to protect Mrs B from the possibility of financial harm from fraud.

I'm persuaded that Mrs B has fallen victim to a scam. But this isn't enough for her to receive a full refund.

Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that*:

- The customer ignored what the CRM Code refers to as an "Effective Warning" by failing to take appropriate action in response to such an effective warning.
- The customer made payments without having a reasonable basis for believing that: the payee was the person the Customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate.

*There are further exceptions within the CRM code, but these don't apply here.

I recognise that Mrs B has been the victim of a crime here. She has been deceived by a scam that led her to believe she was investing her money and would make large profits. She has been left out of pocket by a significant sum as a result of this scam.

I'm sorry to disappoint Mrs B, but having considered everything I don't find that she had a reasonable basis for believing that she was making payments towards a legitimate investment. I'll explain why.

Mrs B has said she was told that a £700 investment would lead to a return of £20,000, or higher, and that this could be expected within hours of making the payment and seemingly without risk. I'm persuaded that this level of return is extraordinarily high, to the point of simply being too good to be true.

From what I've seen, Mrs B doesn't appear to have carried out any research into the investment, before proceeding. Rather she seems to have accepted what she was being told at face value. I think receiving contact such as this out of the blue and being promised such unrealistic levels of return should have prompted Mrs B to exercise much greater caution before deciding to proceed and send this money.

The details she seems to have received about the nature of the investment were very limited. There was no explanation given as to how such a rate of return could be realised or sustained. Furthermore, the investment opportunity was introduced informally through a

social media contact, and there was no formal contract or documentation alongside it. The lack of formalities should have also prompted Mrs B to be more cautious. I accept that Mrs B did sincerely believe that she was making those payments in order to earn a profit. But I'm afraid I don't think that belief was a reasonable one.

I'm mindful that under the terms of the CRM Code, Lloyds should take reasonable steps to provide a customer with an effective warning where it identifies an APP scam risk in the course of a payment journey. Here, Lloyds has said the payments were not unusual and didn't attract a further intervention. In the circumstances of this case, I think that is a finely balanced argument. I say that as where a second payment to a new payee, for a higher value, is being made a pattern is starting to emerge. But, on balance, in the circumstances of this case, I don't think at this point there was enough going on to reasonably have expected Lloyds to have provided a warning.

In any event here, I don't think Lloyds could reasonably have been expected to identify the true reason behind the payment instruction and hence the underlying APP scam risk. I say that as the purpose of the payment Mrs B selected, albeit maybe inadvertently, didn't indicate to Lloyds that Mrs B intended to send the money for investment purposes.

Any warning Lloyds could reasonably be expected to have given to Mrs B would therefore have reflected a fundamentally different scam risk. I don't think an unrelated warning would likely have had a material effect on preventing the APP scam that took place. Overall, I don't find Lloyds has any liability under the relevant provisions of the CRM Code and isn't required to reimburse Mrs B under the code.

The CRM Code does not represent the full extent of the obligations on Lloyds. The Code can provide additional protection where it is relevant. Nonetheless I have also considered whether there is any reason that Mrs B might be entitled to reimbursement outside the provisions of the CRM Code. But I don't think Lloyds failed to meet the other obligations it was under, or that Lloyds should be liable to reimburse Mrs B for another reason.

For the sake of completeness, I've also looked into whether Lloyds did everything I'd have expected in terms of recovering Mrs B's funds. I can see that it did contact the receiving bank in an attempt to do so. Unfortunately, it wasn't able to recover any of the money Mrs B had lost.

I don't say any of this to downplay or diminish the fact that Mrs B has fallen victim to a cruel and cynical scam. I have a great deal of sympathy for her and the position she's found herself in. However, my role is limited to looking at the actions and inactions of the bank and I'm satisfied it didn't do anything wrong here.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 24 December 2024.

Stephen Wise
Ombudsman