

The complaint

Miss L complains that Lloyds Bank PLC (as the recipient bank) didn't do enough to prevent the loss she suffered when she sent money to its customer's accounts as the result of an alleged scam.

Miss L has used a representative to bring her complaint, but for ease of reading, I'll mostly just refer to and will ascribe the representative's comments to Miss L.

What happened

The detailed background to the complaint is known to both parties and so I won't repeat it at length here. Across 2019 and 2020 Miss L made several payments to a company called 'H' for investment purposes. Relevant to this complaint are three payments she made totalling £50,000 from her bank account with 'B' to accounts held with Lloyds. Miss L says initially she was receiving returns as expected, but as time passed these were delayed and eventually stopped altogether. Covid was cited as a reason for non-payment. H eventually entered insolvency proceedings, but Miss L says, based on information that has since come to light, she believes that H were operating a fraudulent "*ponzi scheme*".

Miss L complained to Lloyds in 2023. She said that it had likely failed: to meet its obligations when allowing its customer's accounts to be opened; in its monitoring of the recipient accounts; and in its response when notified of the fraud. Miss L asked that Lloyds refund her loss. Lloyds didn't uphold her complaint. In brief, it said Miss L wasn't entitled to a refund from it under the Lending Standards Board's Contingent Reimbursement Model Code (the CRM code). It said it had no concerns about H and that all relevant fraud checks and procedures had been adhered to. Lloyds said it considers this to be a failed investment – not a scam.

Unhappy with this, Miss L referred her complaint to our service. Our Investigator didn't recommend that the complaint should be upheld. He was not persuaded that Miss L's payments were made as the result of a scam or that there had been a failing by Lloyds which could fairly and reasonably be said to be the cause of her loss.

Miss L asked for an Ombudsman's final decision. As it wasn't clear whether she accepts what our Investigator has explained about our jurisdiction, for the avoidance of ambiguity and so that both parties were clear about the scope of what we can and can't look into I issued a jurisdiction decision first, which set out the extent of Miss L's complaint I could consider. This decision is about the aspects of Miss L's complaint I do have the power to investigate.

To reiterate whilst Miss L hasn't raised this in response to our Investigator's assessment, our Investigator has referred to "account" in his assessment, he intended this to mean accounts (plural) and both accounts held with Lloyds to which Miss L transferred funds have been considered.

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 reached the same outcome as the Investigator, in so much as, I can't uphold Miss L's complaint. I know this will be disappointing for Miss L, so I'll explain why.

Our Investigator first considered whether at the material time H were operating a scam as Miss L alleges. He concluded that he'd not seen evidence to persuade him that the fundamental purpose of the payments was meaningfully different to what Miss L thought. So overall, he didn't think the available evidence supported that the payments Miss L made to the recipient accounts held with Lloyds were made as a result of a scam.

I note in response to his assessment Miss L has said the following: *"A lack of evidence so far should not be any excuse to close such a huge case of National importance. I do believe that H must be made accountable for profiteering mainly ordinary people. We would like this case to become a precedent for future cases and also review how financial services are regulated in the UK."* I can understand, having lost such a significant sum of money, Miss L's strength of feeling on this point. However, I think it would be helpful for me to explain that the Financial Ombudsman Service can only consider individual complaints about the actions of financial businesses that are in our jurisdiction, here that is Lloyds – not H. And if Miss L is unhappy that regulation may not be fit for purpose and/or needs to be changed, this is a matter for the regulator, that being the Financial Conduct Authority (FCA), and is not something our service can comment on.

Besides, here when deciding Miss L's complaint against Lloyds I don't need to make a finding on whether H were operating a scam, to reach what I think is a fair and reasonable outcome for the reasons I'll come onto.

Lloyds are a signatory of the CRM code – a voluntary code through which victims of authorised push payment (APP) fraud, in certain circumstances, can receive reimbursement of their losses. Two of Miss L's payments were made after the CRM code came into force. However, the CRM code sets out that: *"The assessment of whether a Firm has met a standard or not should involve consideration of whether compliance with that standard would have had a material effect on preventing the APP scam that took place."* And for the reasons I've gone onto explain below I don't think it would've done.

So even if I were to accept H were operating a scam it still wouldn't automatically entitle Miss L to reimbursement from Lloyds. In circumstances such as these, where Lloyds (in relation to the matter being complained about do not have a contractual relationship with Miss L, it wouldn't be fair to ask that it reimburse her losses unless it could fairly and reasonably be concluded that its act(s) and/or omission(s) would've made a material difference and were causal to, all or part of the losses.

Ultimately, I've not seen anything that persuades me that there has been a failing by Lloyds in the monitoring of its customer's accounts on or after 31 January 2019 nor the steps it took when Miss L or B notified it of the alleged APP fraud, where it can fairly and reasonably be concluded, that its act(s), or omission(s) were the cause of Miss L's loss.

From what Lloyds have shared, the recipient accounts were established (for a number of years) and operating without any concerns prior to the arrival of Miss L's funds. I can't fairly say Lloyds did anything wrong when crediting Miss L's payments to the recipient accounts or in allowing the funds they represented to be paid away without taking any further action. I say this because against the backdrop of how the accounts were being operated; their general pattern of use; and the prior account activity for each account – the arrival and paying away of Miss L's funds wasn't unusual or suspicious. So, I can't fairly conclude that Lloyds acted unreasonably by not intervening prior to Miss L's funds being paid away.

And, even if I'm wrong about this, from the evidence I've seen H had access to multiple accounts with different firms, either directly or through linked enterprises. So even if Lloyds ought to have acted in relation to these particular accounts prior to Miss L's funds arriving, I don't think she would have ended up in a meaningfully different position. I say this because, on balance, it's most likely that had Lloyds blocked or closed the accounts, Miss L would instead have been directed to make payments to other accounts H had access to.

Similarly, if Lloyds had acted in the period after Miss L's payments had arrived, and before those funds had been paid away I'm still not persuaded that any reasonable level of scrutiny by Lloyds during that period would have resulted in Miss L's loss being prevented because (1) I haven't seen anything that persuades me that Lloyds failed to act upon something that would've resulted in the discovery of a scam/fraudulent intent. At that point in time, Lloyds had not received any notifications of fraud, from what I've seen there wasn't any adverse information about H that was readily available or known to them (it also isn't their role to forensically investigate or audit a business to whom they provide banking services) and even now following its collapse (and multiple claims of fraudulent intent), liquidator involvement/investigations a conclusion still hasn't been reached on this matter. So I'm not convinced that this was something Lloyds could've reasonably identified and unearthed during the period in question; and (2) at best if the accounts operations were outside of its risk appetite, Lloyds would have likely ended its relationship, and in the absence of notification of alleged fraud all it would have done is, upon closure transferred any balance which remained to its accountholder.

From what I can see Lloyds didn't receive notification of alleged APP fraud from Miss L or B until 2023 (several years after the payments were made). I'm satisfied that at that point there wasn't much more that Lloyds could reasonably have done to assist in the recovery of Miss L's funds.

Having carefully considered everything both parties have provided, in these circumstances, I don't think it can fairly and reasonably be concluded that Lloyds' act(s) or omission(s) were the cause of Miss L's loss.

I note in response to our Investigator's assessment, Miss L's representatives have commented on the sums which they believe have passed through the accounts and have suggested that cases should be considered as a whole. However, our service is set up to determine each case (within the scope of our jurisdiction) individually based on its own merits. And here, as I'm required to, I've looked at the individual circumstances of Miss L's complaint. This doesn't mean that I haven't taken into consideration the activity on the accounts or thought about Miss L's payments within the broader context of the other transactions. In fact, I have, and this is largely the basis for me saying that Miss L's payments or the movement/spending of those funds wouldn't have stood out to Lloyds as suspicious or unusual in the context of the general use of the recipient accounts.

I'm sorry for the situation in which Miss L finds herself. But as I'm not persuaded her loss is as a result of Lloyds' act(s) or omission(s) (within the context of what falls within my jurisdiction), there isn't a fair and reasonable basis upon which I can direct it to do more to resolve this complaint.

My final decision

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 18 December 2024.

Sonal Matharu
Ombudsman