

The complaint

Mr B complains that TransferWise Ltd won't refund two disputed transactions made on his debit card. Mr B says he didn't carry out the transactions. He's unhappy TransferWise have closed his account. He would like TransferWise to refund the disputed transactions and give him compensation.

What happened

On 13 November 2019 Mr B went into a restaurant and bar abroad. Mr B has said he made a genuine payment in local currency which was the equivalent of around 11.42 Euro using his card and PIN.

Mr B contacted TransferWise on 14 November to report two further transactions carried out at the same bar. The disputed transactions totalled the equivalent of over 3,000 US dollars.

Mr B thought that someone had got his PIN number after the genuine transaction and used his PIN to authorise the two disputed transactions.

Mr B reported the matter to the police and to the Consul General at his embassy.

Mr B provided the receipts to the transactions. These showed that the disputed transactions were made using chip and PIN meaning the genuine card and correct PIN were used to carry out the transactions.

Mr B said that he got the receipts for the fraudulent transactions through the Consul General and that the receipts show a signature that isn't his.

TransferWise said the receipts show that the transactions were chip and PIN verified and no signature was needed to authenticate the transaction. As the actual card was used.

TransferWise declined Mr B's claim they said that as the correct PIN and genuine card had been used for the transactions, they thought Mr B had likely authorised the transactions. They said they were entitled to close the account in reliance of their terms and conditions and because of their legal and regulatory obligations. They wouldn't be reactivating his account.

Mr B was unhappy with TransferWise's response, so he complained to our service. One of our investigators looked into the complaint. He said he thought it most likely that Mr B had authorised the transactions because the genuine PIN had been used and there was no evidence of how Mr B's PIN was compromised. So, he didn't think TransferWise needed to refund the transactions. He also said TransferWise were entitled to review and close the account in line with its legal and regulatory obligations and the terms and conditions of the account. So, he didn't think they had done anything wrong there.

TransferWise agreed that they should have returned Mr B's closing balances sooner and offered Mr B 75 Euro in compensation for their error.

Mr B was unhappy with the view. He wanted an ombudsman's decision and was unhappy with the offer made by TransferWise. He said it was for the payment service provider to prove the payments were authenticated, he mentioned that authentication was not sufficient to prove the transaction were authorised by the payer. He didn't think TransferWise had complied with the Payment Services Regulation 2017.

As there was no agreement the matter has come to me to decide.

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.

Generally, TransferWise can hold Mr B liable for the disputed transactions if the evidence suggests it's more likely than not, he made or authorised them himself.

I have seen the banks technical evidence and I am satisfied that Mr B's genuine card and PIN were used to make the disputed transactions. Mr B has mentioned the Payment Services Regulations 2017. He is right that it isn't on its own enough for TransferWise to hold Mr B liable just because the transactions have been authenticated. Authorisation is made up of authentication and consent. So, I also need to think about whether the evidence suggests it's more likely than not Mr B consented to the disputed transactions being made.

From what I've seen, I don't think it's unreasonable for TransferWise to conclude Mr B authorised the transactions. I say this because:

- The disputed transactions were made using the genuine card and PIN. Mr B has suggested that someone must have gained access to his PIN following the genuine transaction he made. I agree that this is a potential point of compromise for Mr B's PIN. But a fraudster would have needed his card also.
- Mr B's cards were in his possession and Mr B has never mentioned that the cards were missing. As the genuine cards were used for the disputed transactions it's difficult to see how a fraudster could have got access to Mr B's cards without his knowledge, used them to carry out the two disputed transactions and then replace them without Mr B becoming aware.
- Mr B has said he wasn't in the establishment at the time of the disputed transactions. But I can't see how that can be the case, as the transactions were carried out using the genuine card and PIN and Mr B hadn't lost his card.
- Mr B says he carried out a genuine transaction in the restaurant, the evidence shows this was at 20.46 UK time. The first disputed transaction took place at 23.08 UK time and the second at 23.25 UK time. I think it's unlikely that an opportunistic fraudster having got hold of Mr B's card and PIN would wait over two hours to start using the card.
- I am aware that there is CCTV evidence, but I haven't seen that footage. I am not aware of what it shows and therefore I am not going to comment on it.
- As Mr B said he didn't carry out the transactions he would not have had the receipts for the transactions in his possession. Mr B said that the police via the Consul

General provided him with the receipts of the two disputed transactions. I find it hard to believe that the police would release such evidence to a third party whilst they were investigating. But even if they had, I still think the fraudster would have needed the card and PIN and I can't see how that could have happened.

- Mr B has said that the receipts show a signature that isn't his and he has provided a report from a forensic expert to validate this. As the two receipts were authenticated via Chip and PIN a signature wasn't needed. The disputed transactions were authorised using Chip and PIN and from the evidence I've seen it's more likely that Mr B carried out the transactions.

Taking everything into account, I find on balance that Mr B authorised the disputed transactions. It follows I won't be asking TransferWise to do anything here.

Account review and closure

I'll start by setting out some context for the review of Mr B's account. UK legislation places extensive obligations on regulated financial businesses. Financial institutions must establish the purpose and intended nature of transactions as well as the origin of funds, and there may be penalties if they don't. This applies to both new and existing relationships. These obligations override all other obligations. I am satisfied TransferWise were complying with these obligations when they reviewed Mr B's account.

I know Mr B found it frustrating that his account was reviewed and blocked. I've already said that TransferWise has procedures it *must* follow to comply with its legal and regulatory obligations. I'm satisfied that is what it was doing when it reviewed Mr B's accounts. So, I don't think it has done anything wrong.

As the investigator explained it's generally for banks to decide whether or not they want to provide, or to continue to provide, banking facilities to any particular customer. Unless there's a good reason to do so, this service won't usually say that a bank must keep a customer or require it to compensate a customer who has had their account closed.

The terms and conditions of the account say that TransferWise could close the account with immediate effect in certain circumstances. Looking at the evidence provided by TransferWise I am satisfied they were following the terms and conditions to close the account with immediate effect. So, I can't say they have done anything wrong.

Putting things right

Return of funds

TransferWise have accepted that they should have returned funds remaining in Mr B's account to him sooner. The funds were the equivalent of about 30 US dollars. In consideration of their error TransferWise have offered Mr B 75 Euro in compensation. I have considered the amount and I am satisfied that this is fair compensation in the circumstances.

My final decision

My final decision is that I partially uphold this complaint.

I direct TransferWise Ltd to pay Mr B 75 Euros in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 17 June 2021.

Esperanza Fuentes
Ombudsman