

The complaint

Mr E and Ms F complain that Lloyds Bank PLC failed to refund a transaction that Ms F didn't recognise.

What happened

Mr E and Ms F have a joint account. It was Ms F's experience that led to the complaint, so I'll mainly refer to her throughout the decision.

Ms F explained that she'd attempted to use an Automated Teller Machine (ATM) to withdraw funds, but was unsuccessful. She'd experienced a problem with the machine and believed that there were other persons near the machine when this happened. Ms F went on to say that she'd visited another ATM and the machine wouldn't dispense any funds to her.

It was later found that £500 had been withdrawn from the ATM and the withdrawal was unrecognised by Ms F, who with the help of Mr E, contacted Lloyds about it. Ms F confirmed she still had possession of her card and hadn't told anyone else her Personal Identification Number (PIN).

Lloyds explained that the £500 was withdrawn from the ATM used by Ms F and the money was successfully dispensed. Ms F doesn't remember receiving this amount. Ms F explained that the cash was for some local shopping and she wouldn't withdraw such a large sum.

Mr E spoke with Lloyds on several occasions and it's apparent from the evidence that both he and Ms F were given misleading information by Lloyds, including a commitment by Lloyds to provide a temporary refund to Ms F. Lloyds continued to maintain that the withdrawal was done properly and declined to refund Miss F. Lloyds advised Ms F to contact their fraud department about the loss.

A complaint was made to Lloyds who looked into the situation and accepted that they'd let both Mr E and Ms F down with their customer service and confusing explanations about the issue. Lloyds made several payments totalling £177 to Mr E and Ms F to cover the cost of calls and compensation for the poor customer service.

Ms F remained unhappy with how Lloyds had dealt with her complaint and brought it to the Financial Ombudsman Service for an independent review. It was looked into by one of our investigators who thought that Lloyds had let Ms F down with the way they handled the situation but didn't think that the ATM withdrawal should be refunded. He also thought that Lloyds compensation was appropriate and didn't recommend Lloyds make any further payments. It was thought that neither Mr E or Ms F had ever spoken with Lloyds fraud department.

Ms F disagreed and asked for a further review, providing evidence of calls to Lloyds fraud department.

I issued a provisional decision where I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Ms F's complaint revolves around a withdrawal at an ATM that she didn't recognise. There were later issues with how Lloyds handled the issue which I'll also address. But first I wanted to deal with the ATM withdrawal.

The relevant law surrounding authorisations are the Payment Service Regulations 2017. The basic position is that Lloyds can hold Ms F liable for the disputed payment if the evidence suggests that it's more likely than not that she made them or authorised them.

Lloyds can only refuse to refund unauthorised payments if it can prove Ms F authorised the transactions, but Lloyds cannot say that the use of the card and PIN conclusively proves that the payments were authorised.

Unless Lloyds can show that consent has been given, it has no authority to make the payment or to debit Ms F's account and any such transaction must be regarded as unauthorised. To start with, I've seen the bank's technical evidence for the disputed transactions. It shows that the transactions were authenticated using the payment tools issued to Ms F. I'll now need to consider the information provided by both parties to determine whether there's sufficient evidence to hold Ms F responsible for the disputed transaction or not.

Lloyds ATM records show that a withdrawal for £500 was made by Ms F's card. This required both Ms F's genuine debit card and her PIN. It's apparent from Ms F's evidence that she hadn't given her card and PIN to anyone else at the time of the withdrawal and she still had her card when the issue was reported to Lloyds later that day.

Lloyds ATM records show several other attempts to withdraw smaller amounts which were denied because the daily withdrawal limit had already been reached with the first withdrawal. It's a little unclear from the evidence whether anyone was near Ms F at the time of the withdrawal, but I understand there may have been other persons nearby at one of the withdrawal attempts.

It's difficult to imagine a scenario where an unauthorised third party was able to obtain Ms F's card and PIN in order to make the withdrawal and return it to Ms F without her being aware. Of course, it's possible the funds were removed from the ATM without Ms F being aware if she was distracted by others, but in such a case, she would still have authorised the withdrawal. Once the ATM dispenses the funds, Lloyds have completed the transaction. The evidence points to Ms F making a withdrawal which was then dispensed from the ATM, although I do appreciate Ms F has said she doesn't make such large cash withdrawals.

I sought additional information about the condition of the ATM and Lloyds confirmed that it was operating normally both prior to and after the £500 withdrawal. So, taking everything into account, the evidence I've reviewed so far indicates it was more likely than not that Ms F was responsible for withdrawing the funds from the ATM and it was reasonable for Lloyds to hold her liable for it.

Customer Service

Mr E on behalf of Ms F spent many hours speaking with Lloyds about the issue. It's apparent that both he and Ms F were given misleading information about what was happening. Lloyds repeatedly told Mr E and Ms F that they should report the matter to their fraud department, rather than deal with it as an ATM dispute.

The evidence shows that Mr E did contact Lloyds fraud department, so I'm unsure why Lloyds didn't recognise this when they were looking into the matter. I don't think Lloyds dealt with this particularly well, but I also don't think the confusion caused Lloyds to come to the wrong decision when they declined to make a refund as the evidence shows it was likely Ms F who made the withdrawal.

Lloyds accepted they'd let Ms F down with their handling of the issue and made payments totalling £177 for the cost of calls and compensation for the trouble they'd caused. I think this was a reasonable way for them to recognise how they'd let Ms F down and I don't propose to increase this.

I invited Mr E and Ms F and Lloyds to give me any more evidence and information they wanted me to consider before issuing my final decision. Lloyds didn't have anything further to add. Mr E and Ms F continued to disagree and believed that Ms F had been the victim of fraud and should receive a refund but didn't have any additional evidence to submit.

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, and as neither party had anything further to add that I haven't already considered, I see no reason to reach a different conclusion. So, this final decision confirms the findings set out in my provisional decision.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E and Ms F to accept or reject my decision before 30 October 2022.

David Perry
Ombudsman