

## **The complaint**

Mr M complains that Lloyds Bank PLC failed to refund transactions he didn't recognise.

## **What happened**

After receiving a fraud notification from Lloyds, Mr M reviewed historical transactions on his account. At that point he noticed a large number of transactions that he didn't recognise. Some of them were made using the genuine card and Personal Identification Number (PIN), some of them were payments made via the internet to different merchants.

For ease, I'll refer to the groups of transactions as: Chip and Pin / Internet A / Internet B. The full details of the disputed transactions have already been detailed in the investigator's review and I don't propose to repeat them here.

Mr M raised these unidentified payments with Lloyds who looked into what had happened. Mr M explained that he'd allowed a family member to use his card details to make various purchases on his behalf.

Lloyds couldn't find how the card details had been compromised and declined to make a refund, but did offer £75 for the customer service experienced by Mr M. He remained unhappy with how Lloyds had handled his claim and made a complaint to them. Lloyds investigated the complaint and declined to offer any further refund.

Mr M then brought his complaint to the Financial Ombudsman Service for an independent review. It was looked into by one of our investigators who asked both parties for information about the complaint. Mr M explained giving his family member the card details to assist him with certain purchases, but confirmed that on each occasion he did this, there was no ongoing permission for his account to be used by the family member. Mr M confirmed he still had possession of his card and hadn't given it or revealed the PIN to anyone. Mr M provided evidence that he was in another location when some of the card transactions using the PIN were made.

Lloyds provided audit data of the transactions and evidence of two cards issued to Mr M that were used to make these disputed transactions. After investigating the complaint, our investigator partially upheld it. He explained that payments to Internet A and the Chip and PIN transactions were likely to be authorised by Mr M but payments to Internet B were unlikely to be made by Mr M. He recommended a partial refund to Mr M and an interest payment. He thought that the payment for the customer service was reasonable.

Lloyds accepted the investigator's review, but Mr M didn't. He specifically disagreed that the Chip and PIN transactions were him and asked for a further review of the complaint. It's now been passed to me for a 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.

As the bulk of the complaint has been accepted, I don't need to further consider those parts of it. So, I'll only be concentrating on the aspect of the investigator's review that Mr M disagreed with which are the Chip and PIN payments.

Mr M has explained that he maintained control of his card, never allowed anyone else to use it and didn't give his PIN to anyone. He also said he was working in a different part of the city on the day of the disputed transactions using his card.

Lloyds confirmed the genuine card was used to make these withdrawals, which means here that it wasn't a cloned copy of Mr M's card and the transactions were authenticated. I appreciate Mr M says he was in a different part of the city at the time of these transactions, but it doesn't explain how his card and PIN were used to make these withdrawals. I've considered what's likely here and in order for someone to use Mr M's card without his permission, they would need to be able to obtain the physical card from Mr M without him realising, know the PIN (which Mr M never told anyone about), use the card and then replace it – all with Mr M remaining unaware.

Mr M told us that he lives alone and didn't have much contact with the family member who lives elsewhere (who had the card details but not the PIN). So, I don't think it's feasible that they were the one who took the card, nor do I think it's likely that someone unknown to Mr M took the card, used it and replaced it as no one else knew the PIN. It's unlikely the PIN could have been guessed as there are too many combinations.

If the card was somehow used by an unidentified third party then I would expect the card to be used far more than it was. The account had a healthy balance at the time and if the card user had the PIN, they would have been able to use it at other merchants – but didn't.

Mr M would still be liable for the withdrawals if he allowed someone else to use his card with his permission, which means here that he wouldn't have to be the one physically using the card to make the withdrawals. I acknowledge that Mr M said he hadn't done this, but the evidence I've reviewed makes it unlikely the card could have been used without some form of permission and information (PIN) being given to the user by Mr M.

So, I think it's more likely than not that Mr M was responsible for the use of the Chip and PIN withdrawals and I won't be upholding this aspect of his complaint.

### **Putting things right**

The aspects that have so far been agreed are:

- Refund £480.64
- Add simple interest at 8% for the loss of the use of those funds from the date of the payments to the time they're repaid.
- Pay Mr M £75 for the poor customer service.

### **My final decision**

Unless they have already done so, my final decision is that Lloyds Bank PLC are instructed to settle the complaint as set out above.

For the avoidance of doubt, I do not uphold the other aspects of the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 August 2022.

David Perry  
**Ombudsman**