

The complaint

Mr and Mrs S say Lloyds Bank PLC allowed a third-party to re-instate a cancelled direct debit and collect an unauthorised payment for £100.88.

What happened

Mr S cancelled his direct debit on 12 April 2021 due to an ongoing dispute with his utility provider, but it was reinstated by the supplier in May 2021 and a payment was taken on 23 June 2021. The direct debit was cancelled again on 25 June 2021. A direct debit indemnity claim was subsequently raised by Lloyds but successfully challenged by the supplier on the grounds funds were owed.

Lloyds didn't uphold Mr and Mrs S's complaint saying their direct debit indemnity claim had been unsuccessful as the supplier had evidenced it had sent Mr and Mrs S a letter confirming a direct debit would be taken. It advised them to contact the supplier if they wanted to dispute this agreement.

Mr and Mrs S were unhappy with this response. They want Lloyds to return the payment of £100.88, apologise for allowing this to happen and compensate them for the distress and inconvenience caused.

Our investigator issued two views. I will summarise his most recent as that is the current assessment of Mr and Mrs S's complaint by this service. He upheld the complaint. And said whilst the set-up of the direct debit in May without Mr S's authority would need to be raised with the supplier as it was responsible for that, not Lloyds, he felt Lloyds ought to have been able to make a successful direct debit indemnity claim. He said the direct debit guarantee says the following in relation to cancelled mandates:

'Money shouldn't be collected from your account after you have cancelled the Direct Debit and, under the scheme rules, an organisation would have to obtain your authority to reinstate a cancelled instruction.'

And he thought this to be relevant in this case whether the supplier had re-instated the old direct debit or created a new one. He said the evidence from the supplier showing it wrote confirming a direct debit payment of £100.88 was to be collected monthly did not evidence the supplier had obtained Mr S's authority to either re-instate or establish a new order. He concluded Lloyds must refund the payment and in turn recover the funds from the supplier under a new direct debit indemnity claim. For not having done this properly previously, and to recognise the distress and inconvenience this caused, he said Lloyds must also pay Mr and Mrs S £100 compensation.

Lloyds disagreed with this assessment. It said Mr S had not cancelled the direct debit until 25 June 2021, so the bank was bound by industry rules to uphold the supplier's challenge to the claim. It argued no bank error has occurred. But it later sent evidence to show the direct debit had been cancelled on 12 April 2021, and that the May re-instatement was done by the supplier using the same payment instruction reference. It explained that due to the way this supplier sets up its direct debits electronically it is unable to add a direct debit block.

Mr and Mrs S replied saying in addition to the refund of £100.88 they want £250 compensation, for Lloyds to follow up with the supplier as to why an unapproved direct debit was honoured and then justified - with all correspondence shared with both Mr S and the regulator, and a full apology.

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, my focus is on what I think the key issues are and how to remedy any errors. Our rules allow me to do this and it reflects the nature of our service as an informal alternative to the courts. So, if there's something I've not mentioned, it isn't because I've ignored it, it's because I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

I am upholding Mr and Mrs S's complaint. I'll explain why.

Lloyds has now provided two separate pieces of evidence that confirm the direct debit was cancelled on 12 April 2021. Mr S has also provided emails to the supplier that confirm this. Whilst the supplier sent Mr S notification of his new direct debit amount by post on 22 May 2021 and by email on 20 May 2021, Mr S replied by email on 27 May 2021 saying *'Further to my May 18 email you now expect me to subscribe to a direct debit of over £1,200 per annum, an increase over 250% from your projected £458 of only two months ago. Clearly this is unacceptable and will not be agreed.'* So he had clearly not given consent.

This means when a payment was taken in June under that same payment instruction reference, and Mr S got in touch to dispute that transaction, I find Lloyds ought to have refunded it to Mr and Mrs S and then recovered the money from the utility supplier under the section of the direct debit guarantee that relates to cancelled mandates, as set out above. As it failed to do this, it must now take that step.

I have found no grounds however to increase the compensatory award from £100. I have considered the impact of the bank's failing on Mr and Mrs S, and find the investigator's recommendation to be reasonable given the scope of the issue.

I feel Mr S's request is fair that Lloyds acknowledge its error and so send him a letter of apology. But I will not be instructing it to take any further action. It has now explained that the way this supplier sets up direct debits electronically prevents blocks from being added. Whilst I anticipate Mr S will not be satisfied with this as an explanation, it is a systemic issue and so is not something this service has the power to instruct the bank to look into. We consider individual complaints, whether the bank has made an error and if so how it should put things right. It is the role of the regulator (the Financial Conduct Authority) to review policies, processes and systems across the industry.

Putting things right

Lloyds should refund the £100.88 and process a new direct debit indemnity claim, and pay Mr and Mrs S £100 compensation.

My final decision

I am upholding Mr and Mrs S's complaint. Lloyds Bank PLC must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs S to accept or reject my decision before 30 September 2022.

Rebecca Connelley
Ombudsman