

The complaint

Mr J has complained that Lloyds Bank PLC won't refund a transaction he says he didn't make or otherwise authorise.

What happened

In January 2021, £12,000 was transferred from Mr J's Lloyds account to a third party he'd never paid before, using his mobile app. There were further attempts to drain the rest of his balance over the following two hours, but these were blocked by Lloyds' fraud systems.

Mr J checked his balance the following day and reported the payment that went through. He explained that he didn't know the recipient. At the time of the transaction, his phone was with him and he was alone at work, but the screen was frozen and it said it was updating and not to turn it off. Mr J had changed his online banking security details the day before the disputed payment, as he said he'd had trouble logging in.

Lloyds held Mr J liable for the payment in dispute. They said they'd not detected any malware or remote access, and they said the IP addresses, Wi-Fi box, and location data matched Mr J's genuine activity.

Our investigator didn't uphold the complaint. Mr J asked for his case to be reviewed afresh, so the complaint was passed to me to decide.

I sent Lloyds and Mr J a provisional decision on 29 August 2022, to explain why I thought the complaint should be upheld. In that decision, I said:

Lloyds' technical evidence shows that the payment in dispute used Mr J's mobile app. But this is not enough, on its own, for Lloyds to hold Mr J liable – they also need to be able to evidence that Mr J consented to the transaction. Otherwise, Lloyds have to refund it.

This case is finely balanced. The payment required access to Mr J's PIN-protected phone – which was with him at the time while he was alone – as well as Mr J's online banking security details, which he didn't give to anyone. So I appreciate why Lloyds and our investigator questioned how the payment might have been unauthorised.

However, I'm concerned about the possibility that Mr J's phone may have been hacked or otherwise compromised. A keylogger or similar method could have recorded Mr J's new security details when he changed them the day before. And the apparent update that froze Mr J's screen may have been a façade, to hide a fraudster using his mobile banking app remotely and to stop Mr J from intervening or turning his phone off.

Lloyds have relied on their assertion that there was no malware or remote access present. But having repeatedly pressed them for evidence of this, they've not provided any at all. And the onus is on Lloyds to provide such evidence. So as far as I'm concerned, malware and/or remote access are still plausible possibilities here, unless Lloyds provide evidence which shows otherwise – and before the deadline of this provisional decision.

Indeed, Lloyds' internal notes indicate that this case may involve a method of fraud they've seen before. But again, when we asked them for more information about this, they did not elaborate.

I also note that Lloyds' own fraud systems blocked all the disputed activity after the initial payment went through. So Lloyds' own systems found this incident to be highly suspicious. Again, Lloyds were unable to elaborate further when we asked them for more details about what their system had picked up.

The other thing Lloyds relied on was that they said the IP addresses, Wi-Fi box, and location data involved matched Mr J's genuine activity. But they were unable to provide Mr J's historic online banking activity to compare the IP addresses to, and from what little they could provide I did not see a clear match. I've also not seen anything which substantiates what they've said about any Wi-Fi box data matching. The IP addresses in question don't match Mr J's Internet Service Provider. And the IP locations in question appear to be quite some way away from where Mr J lives and works. So not only have Lloyds been unable to back up their argument with evidence, but what they have provided appears to somewhat support Mr J's side of things.

The person using the account tried to drain it very quickly indeed, and kept trying to send on Mr J's money even when the account was blocked. And their usage of his online banking was notably quick. For example, for the disputed payment that went through, the user managed to log in, look at Mr J's accounts, look at his personal details, set up and confirm a new payee, put in the transaction details, check availability, and validate the payment in just 48 seconds from start to finish. The nature of the account usage seems indicative of fraud.

Mr J had not paid these people before, I've been unable to find any link between him and them, and Lloyds have not provided any information about the recipient account.

Mr J's testimony has been consistent, and so far it seems plausible that his phone could have been compromised in this particular case. I also appreciate that he had trouble communicating, which may have made it difficult for him to get his side of things across.

So taking into account everything that's been said and provided so far, I'm not currently persuaded that Mr J consented to the disputed transaction. While I understand Lloyds' point of view, I do not think they have yet provided sufficient evidence to hold him liable.

I said I'd consider anything else anyone wanted to give me – so long as I received it by 12 September 2022. But neither party sent me anything new to consider.

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.

Neither side have sent me any new evidence or arguments. So having reconsidered the case, I've come to the same conclusion as before, and for the same reasons as set out in my provisional decision above.

Putting things right

I direct Lloyds Bank PLC to:

- refund the disputed transaction; and-
- pay simple interest to Mr J on the transaction, at the rate of 8% simple a year, payable from the date it was last debited until the date it's returned[†]. This is to compensate Mr J for the time he didn't have his money.

[†] HM Revenue & Customs requires Lloyds to take off tax from this simple interest. Lloyds must give Mr J a certificate showing how much tax they've taken off if he asks for one.

My final decision

I uphold Mr J's complaint, and direct Lloyds Bank PLC to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 11 October 2022.

Adam Charles
Ombudsman