

The complaint

Mr M has complained that London Community Credit Union Limited (LCCUL) failed to refund him after an ATM didn't dispense the full £250 that he was attempting to withdraw.

What happened

Mr M said that as he is on benefits, he always takes out £250 from his account by an ATM every two weeks to pay his bills.

With this transaction at the ATM outside a shop, MR M said the lid of the ATM opened but it didn't push out the cash. He grabbed at it and got £50 in £10 notes and then the shutter came down. The shop couldn't help as it's not their machine. So, he called the number on the ATM and the person he spoke to said they could see the transaction and confirmed the money went back into the machine.

Mr M then contacted LCCUL, who said there was nothing they could do as there's nothing to prove Mr M was telling the truth about not receiving all of the cash that he had requested.

So, Mr M brought his complaint to us. The investigator contacted LCCUL, who initially said it had received no complaint from Mr M. It then looked into the complaint but maintained it wasn't liable. Since then, it hasn't replied to our requests, nor did it respond to the investigator's view, so Mr M's complaint has now been passed 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.

Having done so, I'm upholding this complaint. I'll now explain why.

LCCUL has provided no evidence that it investigated this matter as we would have expected it to do for Mr M. The Payment Services Regulations 2017 (PSRs) say the following:

'75. - (1) Where a payment service user:

(b) claims that a payment transaction has not been correctly executed,

it is for the payment service provider to prove that the payment transaction was authenticated, accurately recorded, entered in the payment service provider's accounts and not affected by a technical breakdown or some other deficiency in the service provided by the payment service provider.'

As Mr M was trying to withdraw funds from his LCCUL account, LCCUL is the payment service provider here. So, given that Mr M says the payment didn't execute correctly, the onus lies with LCCUL to show that it did. Otherwise, I wouldn't consider it fair to hold Mr M

liable for the transaction. If it needs information from another party (such as the ATM provider) to prove authentication, that's a matter between LCUUL and the third party.

Mr M told us that when he phoned the number on the ATM, the operator he talked to confirmed they could see the transaction and that the money had gone back into the machine. Therefore, had LCCUL contacted the owner of the ATM it should have been able to obtain this evidence from the ATM owner and verified if what Mr M said he was told was correct.

Also had LCCUL contacted the owner of the ATM, it would have been able to obtain evidence to show whether the ATM had balanced after Mr M's transaction, and whether there were any spare funds in the ATM's purge box. This is the standard of evidence the regulations require LCCUL to obtain when a consumer like Mr M raises a dispute like this.

So as LCCUL hasn't shown the payment likely authenticated correctly, I consider it hasn't treated Mr M fairly or reasonably and consequently I'm upholding this complaint. LCCUL should refund Mr M the sum of £200, adding simple interest of 8% per year from the date Mr M made the ATM transaction to the date of its refund. This is to address the loss he's alleging – given that he's told us he received £50 but was charged for £250.

Mr M was put to some considerable distress given LCCUL's lack of investigation. He explained he had to borrow money from his family in order to pay his bills. So, I agree with the investigator that LCCUL should pay him some compensation in the sum of £100, which I consider to be reasonable.

My final decision

So, for these reasons, it my final decision that I uphold this complaint.

I now require London Community Credit Union Limited to do the following:

- Refund Mr M the £200 which the ATM didn't dispense.
- Add simple interest of 8% per year from the date Mr M made the transaction at the ATM to the date of its refund. If income tax is to be deducted from the interest, appropriate documentation should be provided to Mr M for HMRC purposes.
- Pay Mr M the sum of £100 compensation for the distress and upset caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 2 December 2022.

Rona Doyle
Ombudsman