

The complaint

Mrs S has complained London Mutual Credit Union Limited won't refund money for cash machine withdrawals.

What happened

After getting back from holiday in January 2023, Mrs S complained to London Mutual that there were unauthorised cash machine withdrawals on her account. These had occurred when she'd been on holiday so she didn't believe she could have made these herself.

She then got back in touch with London Mutual that there were withdrawals back to January 2022 that weren't hers.

London Mutual apologised for the late delivery of her replacement card and PIN in December 2022. They also explained that due to system issues, withdrawals between 13 and 25 December 2022 didn't appear on statements until January 2023. They felt this showed these withdrawals had all been made by Mrs S.

Unhappy, Mrs S asked the ombudsman service to progress her complaint.

Our investigator reviewed the evidence. She felt this showed Mrs S still had her card and PIN prior to its replacement in December 2022, and then had the new card in her possession. She didn't believe there was evidence to show these withdrawals were unauthorised.

Mrs S has asked an ombudsman to consider her complaint.

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've reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The regulations which are relevant to Mrs S's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves.

Firstly I should like to confirm that I won't be considering the cash machine withdrawals which took place in January 2022 which Mrs S disputed. As Mrs S already knows, these took

place more than 13 months before she complained to London Mutual in writing at the end of February 2023. In accordance with the PSRs, Mrs S must have complained about disputed transactions within 13 months of them taking place.

I have, however, looked at all the other transactions that Mrs S disputed, along with the evidence London Mutual provided to our service. I have also noted the detailed view provided by our investigator in September 2023.

The evidence confirms the genuine card and PIN were used for the disputed transactions. Within these disputed withdrawals, I can see Mrs S was making other transactions with her card and PIN which she hasn't disputed. Mrs S never reported her card lost or stolen prior to the replacement card she received in December 2022, and she's confirmed the later card remained within her possession. For someone else to be using her card and PIN means that someone close to her must have done this. This would be the only explanation for someone being able to know where her card was kept, what her PIN was, and being able to replace this regularly to enable Mrs S to also use the card when she needed to. I don't see any evidence that this was the case. In fact it's most likely Mrs S made the withdrawals herself. I appreciate she has disputed this but I believe this is what happened.

This is particularly the case when I consider the later transactions which were made with Mrs S's replacement card and PIN. These were only provided to her in December 2022. I believe her immediate concern on raising fraud with London Mutual was that these transactions took place whilst she was on holiday.

As it's turned out this definitely wasn't the case. In fact the six withdrawals all took place in December after Mrs S had belatedly received both her new card and PIN and prior to going away on holiday. I appreciate the distress that was caused when Mrs S believed mistakenly these had taken place when she was away and in some cases took place on the same day exceeding her daily withdrawal limit. This was caused by a system error in processing transactions to her London Mutual account (hers and other London Mutual customers) which only appeared in January 2023. However I've seen the detailed evidence and can see these withdrawals did take place in December. Mrs S's own evidence to London Mutual confirmed that one of her last December withdrawals was one of £240 which matches what London Mutual told us.

I'm sure Mrs S has had some issues with her London Mutual account. Her replacement card and PIN arrived later than they should because of postal delays and card shortage issues. She had issues with her online banking and found it difficult to get transparent information about how her account operated and the costs related to it. I'm aware that Mrs S has subsequently closed her account with London Mutual.

London Mutual has apologised for those issues and offered compensation – specifically £100 for the mis-posting of transactions in January 2023 rather than December 2022 and £80 for the delay in Mrs S receiving her replacement card and PIN. I believe £180 is fair and reasonable for the trouble Mrs S has had.

However overall I'm satisfied that these disputed withdrawals were most likely authorised by Mrs S.

As Mrs S has closed her account with London Mutual, they've not been able to pay her the compensation due, so Mrs S will need to confirm where she wants this paid to if she wants to accept this outcome.

My final decision

For the reasons given, my final decision is to instruct London Mutual Credit Union Limited to pay £180 to Mrs S for the trouble caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 5 December 2023.

Sandra Quinn
Ombudsman