

The complaint

Mr P complained because Lloyds Bank plc refused to refund him for transactions he said he didn't make.

What happened

On 11 July 2023, Mr P contacted Lloyds. He'd just received his credit card statement, and there were three transactions on 1 and 2 July which he said he hadn't authorised. These were to three different recipients abroad, and each was for £77.84. Mr P told Lloyds he still had his credit card and his phone, and no-one else had access to these.

Lloyds didn't agree to refund Mr P. He complained. In Lloyds' final response letter, it said that it had taken its decision because:

- the IP address (a unique computer identifier) used for the transactions matched Mr P's;
- the phone used for the transactions was the one which Mr P had used before for genuine transactions; and
- at least one of the disputed transactions had been approved by a one-time passcode being sent to Mr P's registered device, and the person authorising the transaction had then entered that to authenticate the payment.

Mr P wasn't satisfied and contacted this service.

Our investigator didn't uphold Mr P's complaint. He said it was more likely than not that Mr P had authorised the three transactions himself.

Mr P said he was very unhappy about this. He provided some more information. Mr P had another credit card with a different organisation. He'd ordered some garden furniture on that other card, for £77.86, which had never been received. His statement for that other card had shown the purchase was from the same country as the three disputed £77.84 payments. So Mr P suggested that there might be a fraudulent link between the two. But this didn't change the investigator's view.

Mr P asked for an ombudsman's decision.

My provisional findings

I issued a provisional decision on this complaint. This was because I'd come to a different conclusion to the investigator. Issuing a provisional decision gave both sides the opportunity to comment on it, by the date set, before I issued a final decision

Before issuing the provisional decision, I considered all the available evidence and arguments to decide what would be fair and reasonable in the circumstances of this complaint.

In my provisional decision, I explained that there are regulations which govern disputed transactions. The relevant regulations here are the Payment Services Regulations 2017.

These say that the payment service provider (here, Lloyds) must show the transaction was authenticated. That's the technical part. Here, Lloyds had provided the authentication evidence for the third disputed transaction, which took place at 19.28 on 2 July 2023. But it didn't provide any authentication for the first two.

The regulations also say that it's necessary to look at whether the card holder authorised the payments. In general terms, the bank is liable if the customer didn't authorise the payments, and the customer is liable if they did authorise them.

I asked Lloyds for more information:

- As it had said the transactions had been carried out on Mr P's registered phone, I asked for a copy of the account information showing the same device ID registered on his account.
- As it had said the transactions had been made using Mr P's IP address, I asked for:
A copy of the IP addresses for the first two disputed transactions, and
A copy of a genuine transaction which showed the same IP address as the disputed transactions.

Lloyds replied that it no longer had any of this information because more than 90 days had passed since the transactions.

So the evidence was very incomplete:

- I didn't have the necessary authentication evidence for the first two transactions, which is necessary for the bank to provide under the Payment Services Regulations.
- Nor did I have any evidence that the IP addresses for the first two transactions match genuine transactions. And I also noted that the IP address on the third transaction, where we do have authentication evidence, shows a location around 55 miles away from Mr S's home address. That doesn't make it impossible, of course, but it made it more unlikely that that was his normal IP address.
- I had no evidence to show me what phone device was registered to Mr P's account, or what device was used for the first and second transactions.

To balance against this, I had seen computer evidence that the third transaction had a text challenge – in other words, that the person who had the phone and who made the transaction had answered a text challenge to confirm that the transaction was to go ahead. Mr P says he hadn't lost his phone. So if the phone used was Mr P's registered phone (which Lloyds said it couldn't evidence), this meant it was more likely than not that Mr P, or someone with access to his phone, authorised this transaction.

I also considered Mr P's suggestion that the disputed transactions were linked to a transaction on his account with another bank. I said that I could see why he thought this, when the transactions were similar within pence, and all were stated as originating with a payee in the same country abroad. But without much more evidence, including from the other bank, I couldn't say that this was the most likely way the disputed transactions happened. Similarly, I didn't feel I could rule this out because frauds can arise through complex mechanisms.

So at the time of my provisional decision, there wasn't a clear solution. When evidence conflicts or is missing, I take my decision on what I think is more likely to have happened, taking into account the evidence which is available. Here, Lloyds hadn't provided the

authentication evidence for the first and second transactions, which is the payment service provider's responsibility. And as I didn't have enough evidence (IP address, device etc) to indicate that it was more likely than not that Mr P carried out the transactions, my provisional decision was that I intended to order Lloyds to refund Mr P for the three disputed transactions ie £77.84 x3. So I said that, subject to any responses to this provisional decision, I intended to order Lloyds to refund Mr P £233.52.

Responses to my provisional decision

Lloyds replied that it had refunded Mr P. It said it had submitted chargebacks for the three disputed transactions on 20 October 2023. It said it had told Mr P on 20 October that it would make a temporary credit to his account, and that the merchant had 45 days in which to respond and challenge this. If the merchant didn't respond within that timescale, the credit would become permanent.

I checked with Mr P, who replied that he had had a chargeback refund, which meant that all he'd paid was £13.99 in interest. I requested statements from Lloyds to check this, as I didn't consider Mr P should have to have paid interest. But the £13.99 turned out to be a different transaction. Mr P agreed this.

I also asked Lloyds for the call recording from 20 October, and listened to this. Mr P was put on hold for around half an hour, which was a long wait while the call handler consulted colleagues. But the individual Lloyds call handler was very efficient in what she told Mr P, and she took trouble to try to initiate chargebacks – which no previous Lloyds employee had done.

Lloyds didn't reply further to Mr P to update him. But as more than 45 days had passed since the chargebacks were raised on 20 October, it told us that the money would not now be re-debited.

As a result of the changed facts, I emailed both parties to give them my opinion about a fair outcome for this case. I said that the current situation was that Mr P didn't have an outstanding financial loss. But I said that I intended to order Lloyds to pay Mr P £100 compensation for distress and inconvenience, because Lloyds didn't deal appropriately with the early July disputed transactions until 20 October.

Mr P said he appreciated this, and he didn't have anything more to add.

Lloyds said it couldn't see it had made any error with the way it had dealt with the transactions. It said it hadn't been able to agree the transactions had been fraudulent in July, because its systems had shown that the IP address matched Mr P's; the phone used was one Mr P had used; and at least one transaction had been approved by a one-time passcode. Mr P still had his card.

Lloyds said that when it had issued its final response letter, it had set this out and had then said:

"As we are not able to take this on as a Fraud claim for the reasons that have been explained, there are other steps you can follow. You can speak to our Disputes team. I am unable to manage your expectations on whether they would be able to assist. It is likely they would ask for more information to determine if there was a claim right. However, if you wanted to discuss this further with us, you can call the Disputes team on [number]." The letter then went on to give referral rights to this service, as required of a final response letter.

Lloyds said it had been entirely Mr P's decision not to contact Lloyds until 20 October, so it didn't feel the complaint merited compensation.

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.

I've reconsidered Mr P's case as a whole here, from when he reported the disputed transactions to the chargebacks. I've taken into account the new information which emerged after my provisional decision.

Lloyds was unable to provide us with the authentication evidence which is required from the payment services provider under the Payment Services Regulations 2017. Not could it provide us with the other information, such as the IP address on which its final response to Mr P had relied. So I can't take any of that information into account when considering this complaint.

I've considered Lloyds' argument that its final response letter gave Mr P the opportunity to take his complaint further, but he didn't do so until 20 October. But the wording of the final response letter doesn't appear to hold out any realistic prospect of a change in outcome, so I don't think it's surprising that Mr P didn't immediately contact Lloyds again. What he did do in July was to contact this service, as Lloyds' final response letter offered.

It's not clear to me why Lloyds didn't raise a chargeback before 20 October. A chargeback isn't essential in a disputed transaction issue, and it doesn't always give enough information to satisfy the requirements of the Payment Services Regulations. But it can sometimes produce a satisfactory outcome, and in the circumstances here, I consider that Lloyds could have considered and attempted a chargeback in July – which was just what its helpful October adviser initiated and set in motion.

It's not clear to me from the 20 October call recording why Lloyds suddenly decided to attempt a chargeback, but I think it's likely to be solely down to the competence and efficiency of the call handler that day. As a result of her actions, Mr P received a temporary credit which in due course became permanent.

As I've set out above, in financial terms, Mr P didn't eventually suffer any financial loss as a result of what happened. Mr P initially thought he'd been charged interest, but as I've set out above, he's now agreed that the figure he thought was interest was something else, and no interest was charged. So there is no financial loss.

But when this service considers a complaint, we also consider compensation for distress and inconvenience. I consider that Mr P would have suffered frustration, upset and unhappiness as a result of Lloyds' refusal to consider his complaint seriously for over three months after he raised it. It was only on 20 October that it suddenly suggested, and decided to attempt, a chargeback for the disputed transactions which Mr P had raised in mid July. That solved the issue because the chargeback wasn't disputed by the merchant. So I consider that it would be fair and reasonable for Lloyds to pay Mr P £100 compensation.

My final decision

My final decision is that I uphold this complaint.

- Since Mr P brought his complaint, Lloyds has refunded him with the £233.52 for the three disputed transactions, so that is no longer an issue.

- However, for the reasons stated above I order Lloyds Bank plc to pay Mr P £100 compensation for distress and inconvenience caused by its delays and rejections of his complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 8 February 2024.

Belinda Knight
Ombudsman