

The complaint

Mr S complains that Lloyds Bank PLC ('Lloyds') won't refund two transactions totalling £1,000 which he says he didn't authorise.

What happened

The background to this complaint is well known to both parties, so I won't repeat everything here. In summary, Mr S says that he was staying in a hotel and when he awoke, he discovered two transactions (£600 and £400) totalling £1,000 had left his account - approved using his biometrics. Mr S denied authorising the transactions and could not explain how they were carried out.

Lloyds said a mobile application was used to authenticate the transactions, which required the use of either a fingerprint scanner or Face ID to pass security.

Lloyds believes that Mr S authorised these transactions.

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 don't uphold this complaint.

Generally speaking, Lloyds is required to refund any unauthorised payments made from Mr S's account, and Mr S should only be responsible for transactions made on his account that he has authorised. Those rules are set out in The Payment Services Regulations 2017. Mr S says he didn't authorise the transactions he's disputed. So, I have to decide whether or not I think Mr S authorised them.

Lloyds provided us with screenshots which indicate that the two disputed transactions were instructed on 11 February 2024 at 4.52am and 5.19am. It has also provided us with a copy of historical login data for Mr S's account. I can see this data shows a login to Mr S's account on 11 February 2024 at 4.52am (just hundredths of a second before the first disputed payment), and also at 5.17am a couple minutes before the second disputed transaction took place. The data also shows a transfer of £500 to Mr S's other account with Lloyds (his current account) at 5.21am; and that the relevant logins were from the phone Lloyds had registered for Mr S, which was the same phone that was consistently used by Mr S in 2024 before this incident.

The information provided by Lloyds also shows that the relevant logins were completed using Mr S's biometrics, which I understand would consist either of Mr S's fingerprint or facial recognition. There are no discrepancies or indications that I can see that these were anything other than logins by Mr S on his Lloyds app, at most a couple minutes before each transaction occurred. So I'm satisfied from the information that the two disputed transactions were made and authenticated using Mr S's phone where biometrics were required and provided.

In order to decide Mr S most likely authorised the two disputed transactions, however, I not only need to be satisfied the transactions were authenticated (as I've said I think they were above), but I also need to be persuaded Mr S most likely consented to them. In this regard, I note that Mr S has said his phone was 'on silent' next to him whilst he slept and that nobody apart from him entered his hotel room. He stressed that he was in control of his phone the whole time. In more recent submissions to us, however, he has suggested that perhaps, whilst he was sleeping in a taxi on the way back to his hotel, or whilst in his hotel room, someone might have been able to pass facial recognition biometrics by pointing the phone at his face whilst he was sleeping, authorising the disputed transactions without his knowledge or consent. But I agree with what our Investigator said about this. In this case, given the evidence I've seen, I can't see a plausible explanation of how this would likely have happened, and how the transactions could have been authorised without Mr S's consent at the time. Mr S has said himself no one else was in his hotel room with him. And given the number of logins and their timings, I don't find it persuasive that this likely would have occurred in the taxi without Mr S's knowledge at the time either.

I appreciate Mr S will be disappointed. But for the reasons I've explained, I'm therefore not persuaded it was unreasonable for Lloyds to treat these transactions as authorised, and to therefore not refund them.

My final decision

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 29 November 2024.

Sureeni Weerasinghe
Ombudsman