

The complaint

Miss S complained because TSB Bank plc failed to stop repeated fraudulent transactions on her account.

What happened

In early September 2023, there were around 26 debits on Miss S's TSB account. They were all to an online food delivery company. Miss S hadn't authorised these and contacted TSB.

TSB refunded Miss S's account, cancelled her card and issued a replacement.

A few days later, there was a £16.50 debit to a different food company. Ms S told TSB she hadn't authorised this payment either, and TSB refunded it. She complained.

TSB wrote its response to Miss S's complaint on 20 September. In that, it said it had come to light that its fraud department *"failed to apply the appropriate safeguarding measures on the account, which subsequently led to further fraud taking place."* TSB apologised for its mistake. It paid Miss S £50 compensation for upset and frustration.

But the unauthorised payments continued to the second food delivery company, with five further debits to this second food company in early October. Miss S rang TSB to say she hadn't authorised these, and also went into a branch. TSB issued multiple replacement cards: on 6 September, 18 September, 3 October and 6 October. The last two unauthorised payments to debit Miss S's account took place on 10 October.

On 4 October, Miss S had contacted this service. She said she kept calling TSB's complaints team, but all TSB was doing was stopping her cards and sending a replacement, but sometimes her account had been hit again before she even received the replacement card, so she was having to freeze a card she hadn't even received yet. She said this was causing her to have panic attacks with the stress. She said she'd heard every excuse in the book, but no-one was actually resolving the issue and she had been waiting more than the timescale for TSB's fraud team to contact her.

Our investigator contacted TSB. TSB said it couldn't provide Miss S with any timescales for when her complaint would be reviewed, but it offered to increase its compensation from the £50 it had already paid to a total £150. Miss S wasn't satisfied with that, and said she wanted £35 for every fraudulent transaction. TSB didn't agree to this. It said that it had also refunded two 10 October transactions totalling £26 which Miss S hadn't at that time reported, and it thought its offer of a further £100, making £150, was fair. Our investigator considered the total of £150 was fair.

Miss S didn't agree and asked for an ombudsman's decision. The case was passed to me. I considered it was likely that the payments were in fact Continuous Payment Authorities (CPAs) and asked the investigator to contact TSB for more information.

TSB provided more information about the payments, which had been CPAs. A CPA is a type of payment which is set up using a customer's card details. I'll set out more details about

CPAs below. But TSB said that it had refunded the disputed transactions, and had removed the CPAs. It said that no further payments had been debited from Miss S's account since 10 October 2023. It acknowledged that there had been further attempts to claim payments made by the second merchant – but it pointed out that it couldn't stop the merchant claiming the payments, which was why Miss S was still getting service alerts about payment claims, which she had to keep rejecting.

Our investigator said that although she understood the frustration of having the alerts pop up on Miss S's phone, there wasn't much more TSB could do. So the investigator thought that a total of £150 compensation was fair, because she thought TSB had done all it could and within a reasonable time. She suggested that Miss S should contact the merchant direct, asking it to remove her details, which should stop the alerts.

Miss S wasn't satisfied. She was unhappy that after investigating further, the investigator had come to the same conclusion. She said she'd now had 8 bank cards, and had been to the branch numerous times, where staff who'd worked for TSB for 15 and 20 years had said they'd never come across this before. So Miss S said she didn't accept the tiny hand-out. She said TSB had told her nearly a year ago that it wouldn't happen again, but it was still doing so. She 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 recognised that Miss S had found this a very frustrating experience. It wasn't surprising that she was stressed and upset when unauthorised payments kept happening between early September and 10 October, despite the replacement cards.

There are regulations which govern disputed transactions. The relevant regulations here are the Payment Services Regulations 2017. 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.

TSB hadn't provided us with evidence of any investigation which it might have carried out into what happened – for example what questions it might have asked Miss S about how her card could have been compromised, to the two different merchants. But TSB hadn't argued that it believed Miss S authorised the payments herself, either to the first or second food delivery company. As TSB accepted that Miss S didn't authorise the payments, it had to refund her for them, which it did. I considered it refunded her within reasonable timescales whenever she reported the transactions.

So there's no outstanding financial loss, and the issues for me to consider are therefore about whether TSB did what it should have done about stopping these fraudulent payments – and if not, how much compensation it should pay Miss S.

In the provisional decision, I first set out more about CPAs. When a CPA has been set up using a customer's card details, the merchant then has permission to take multiple payments as and when they're due. It should be possible for a customer to cancel a CPA either with the merchant or with the card provider (here, TSB), but in practice there are often problems.

To start with, the CPA is attached to the customer's account, not to the card. So changing the card won't achieve anything.

I looked at TSB's actions. In TSB's recent evidence, it had said it had deleted the token (which enables the CPA payments) from Miss S's account for the first online food merchant on 6 September. It sent us a copy of that deletion, and there were no further transactions to that merchant. So in doing so, TSB did stop the transactions to the first merchant from recurring.

But that didn't appear to be the case with the second online food merchant. TSB said that the only token it could locate after the first payment to the second online food merchant, was one to an online payment service, which it deleted on 17 September. After the subsequent payments to the second online food merchant, TSB's records show that it again deleted a token on Miss S's account, though that too was to a different merchant. It's not clear to me why Miss S's account didn't show a token to the second online food merchant, which I'd have expected to see as payments were debited up to 10 October.

CPAs can be very difficult to deal with. Unlike a direct debit, they're usually set up online or on the phone without a paper trail. And there's no guarantee, unlike the direct debit guarantee. In terms of how TSB dealt with trying to stop the CPAs, the evidence indicated that it did stop the debits to the first merchant, but for reasons I don't know there was no token relating to the second, which meant there were several recurrences before the last payment on 10 October.

I explained that I didn't know how the two merchants obtained Miss S's TSB account details in the first place. I didn't have statements going back much before the September transactions, but the merchants might have obtained Miss S's details if she'd previously made other payments to them which had been genuine. Merchants should make it clear to customers if they're setting up a CPA, with the customer positively agreeing to the amounts and frequency of the payments, but this doesn't always happen. It would be best for Miss S to contact both merchants to cancel the CPAs and have her details removed from their records, to prevent future problems. It's also always wise to be careful when providing card details for any payment which might turn out to be a CPA.

But as well as looking at what TSB did in relation to stopping the CPAs, I considered its service to Miss S.

Importantly, I couldn't see that TSB ever told Miss S that changing cards wouldn't stop the CPA payments. Instead, it kept issuing her with new cards. TSB's evidence said it issued four new cards between 6 September and 6 October, whereas Miss S said she received eight new cards. Whichever figure was correct, I considered TSB should have advised Miss S that changing cards wouldn't solve the problem. That's because CPAs are linked to the account not to any particular card, so while the account was still open the problem could still recur. I couldn't see any evidence that either TSB's fraud team, or the branch, explained this to Miss S. As a result, this led to increased frustration and upset, because understandably she expected that each replacement card should have solved the problem – and it didn't. This would have been worrying.

TSB issued its final response to Miss S's complaint on 20 September. This acknowledged that it hadn't applied "*appropriate safeguarding measures*" which it said had led to further fraud, and paid her £50 compensation. But this only covered the fraudulent transactions to the first online food merchant, which were successfully stopped after the first batch of transactions.

TSB told us in late December that it had re-opened the complaint on 11 October after the 10 October fraudulent transactions, but said it couldn't give Miss S any timescales for when the complaint would be reviewed. Banks have eight weeks to provide a response to a customer's complaint. As far as I'm aware, TSB never did reply to Miss S about the fraudulent payments to the second online food merchant.

I also wasn't persuaded by TSB's argument in relation to compensation that it refunded Miss S for the 10 October £26 transactions before she'd reported them as fraudulent. That's because card providers are required by the Payment Service Regulations to cancel a CPA which a customer has said they didn't authorise. Card providers can monitor the account and refund any further payments from a cancelled CPA. And as I've set out above, the Payment Services Regulations say that customers are only liable for transactions which they've authorised, and TSB hasn't alleged that Miss S authorised these payments. So I didn't consider that £26 refund was something which should be offset against any compensation for distress and inconvenience.

Looking at compensation, I considered TSB's suggested compensation of £150 was too low in all the circumstances of this complaint. I've particularly borne in mind:

- Repeated failure by both the fraud team and branch to explain to Miss S at an early stage that the payments were CPAs, and what this would mean for preventing recurrence;
- Repeatedly issuing replacement cards, when this was never going to solve the problem of a CPA, causing frustration when the inevitable further debits occurred;
- Lack of good customer service, including never responding to Miss S's complaint about the CPAs which were made to the second online food delivery merchant.

I considered that a more appropriate amount of compensation would be £250, of which TSB had already paid £50. I realised that Miss S wants £35 for each fraudulent transaction, but our compensation doesn't work like that with a figure for each transaction. Instead, I consider what would be fair and reasonable in all the circumstances of a case. I also considered that the total proposed by Miss S would be disproportionate here. Miss S didn't have any problems getting TSB to refund the fraudulent amounts debited, and the transactions took place over just over a month, between early September and 10 October. I explained that Miss S could see other examples of compensation on our website.

Finally, moving forward I said that it's correct that TSB can't stop the further attempted payments. Miss S can continue to reject these payment alert requests on her phone, but it would be a more definite solution if she were to contact the merchant and tell them to remove all her details. I noted that Miss S had asked that TSB should move her direct debits and standing orders to a new TSB account, and if she has any further issues she can raise these as a new complaint.

Responses to my provisional decision

Miss S didn't accept the provisional decision. She said she'd spoken to other people, and said that a different bank gave its customers £100 for one transaction. She said she'd had 26 so the proposed compensation would work out at just under £10 per transaction. She said that she'd been investigating further at the request of national newspapers.

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.

As I explained to Miss S in the provisional decision, we don't award compensation on the basis of a figure for each transaction. Instead, I consider what would be fair and reasonable in all the circumstances of a case. I'd also explained to Miss S the reasons why the total proposed by Miss S would be disproportionate in the circumstances set out above.

So I consider my original conclusions were fair and reasonable in all the circumstances of this case.

My final decision

My final decision is that I uphold this complaint. I order TSB Bank Plc to:

- pay Miss S a total of £250 compensation for the distress and inconvenience it caused her in relation to its handling of the disputed CPA debits on her account. TSB has already paid £50, leaving a further £200 still to pay.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 22 August 2024.

Belinda Knight
Ombudsman