

## **The complaint**

Miss J complained that TSB Bank plc wouldn't refund her for fraudulent transactions on her account.

## **What happened**

In 2022, Miss J told TSB that someone was stealing her identity. She also said that she was being abused and manipulated by a relative and his friends, and that she hadn't made some of the transactions which had gone through her TSB accounts. Miss J also told TSB about her mental wellbeing and financial situation. She said she had a support worker and had also been to the police.

There was a lot of contact and attempted contact between Miss J and TSB, including Miss J going into branches. She initially said she wasn't sure of the extent of the fraud, but later marked up copies of her statements on several occasions. She marked one dot next to those she'd genuinely authorised, two dots next to those she hadn't authorised, and three dots next to those she wasn't sure about. The statements dated from 2020, and there were hundreds of transactions with many every day – for example on 10 January 2022 there were 32 transactions. There's no clear pattern, with Miss J disputing some incoming as well as some outgoing payments. Sometimes there are multiple payments to the same recipient on the same day, some of which are disputed and some aren't. Some involved her card, and others were online payments, and others were subscriptions. Miss J also believed some payments were genuine but had been duplicated. She altered some of the codes she'd marked, and there are some transactions which Miss J hasn't marked with any of her codes.

There were multiple phone calls and attempted calls between Miss J and TSB, with calls often being disconnected. TSB also tried to contact her by post and email.

On 17 January 2023, TSB sent a final response to Miss J's complaint that she was unhappy with the progress of her fraud claim and that no-one had phoned her back from the fraud department. TSB said its Fraud Investigation team had tried to speak to her on 1 December but hadn't been able to reach her. It said it needed to speak to her about her claim, to help with the investigation. And it said it would arrange for the Fraud Investigation team to contact her. It gave her referral rights to this service, within the standard six months from the date of its letter.

The case records show multiple failed contact attempts between Miss J and TSB after that, throughout 2023 and early 2024. These included calls from Miss J, calls which were disconnected, an arranged online meeting which Miss J didn't join, and an arranged branch visit which Miss J didn't attend.

In May 2024, Miss J contacted this service about TSB. She said she was being ignored by TSB, and two local branches weren't helping her. She said she'd reported fraud on her account, and at the time a relative who lives with her was on drugs and she thought it was to do with him or his friends. She said she'd had money go missing, someone remotely accessing her devices, and had been stalked. She also said she'd had her medication go missing.

Miss J also said that she'd had her internet banking blocked because that was being fraudulently accessed, and TSB had also changed her card. She said the fraud had now stopped and she wanted internet banking and another card. She also said that incoming benefits and payments hadn't reached her account. In a call with this service, Miss J said that her health had prevented her attending some meetings.

Our investigator first considered whether this service has jurisdiction to consider Miss J's complaint, because she hadn't contacted this service within six months of TSB's final response letter to Miss J's first complaint. But Miss J had complained again to TSB in March 2024, and TSB didn't object to our considering Miss J's complaint, so the investigator decided we could consider it.

Our investigator looked at what had happened. She noted that among other things, Miss J had told TSB that she'd found her PIN written in her diary and believed someone was taking and replacing her card. This was different from what she'd told our service. The investigator said at points, she thought TSB could have done more to keep Miss J informed – but TSB was reliant on Miss J providing information before it could investigate her dispute properly. TSB had also offered different options, including agreeing to go through the transactions with her in person. The investigator said she too had tried to obtain more information from Miss J but didn't receive a reply. So it wasn't clear how the transactions could have taken place without her authority.

Miss J had also said that she believed the fraud had stopped and wanted access to online banking in order to pay bills. The investigator said that that would be up to TSB, and she couldn't instruct TSB to remove any remaining restrictions as there might be other factors involved. And doing so without having established how any fraud had taken place could leave Miss J open to further fraud.

So the investigator's View concluded that she didn't have enough information to decide whether the disputed transactions were or weren't fraudulent. And she couldn't say TSB had acted unfairly in refusing to refund Miss J or restricting access. The investigator said she encouraged both sides to contact each other.

Miss J asked for an ombudsman's decision. While her case was in the queue, Miss J and the investigator exchanged more emails. Miss J's email were long and I'll summarise key points here. She said her initial appointment with TSB had been for an overdraft. She said she hadn't been able to hand in her statements as she can't work because of her illness, so she couldn't get to the branch. She said one lady in TSB's investigation team had been very helpful but others hadn't, and she'd waited all day by her phone, cancelling mental health appointments. She said she still didn't know whether TSB had received the statements she'd marked up.

Miss J then emailed about needing a refund from an online retailer, and sent copies of chat with the retailer. But our investigator explained that we couldn't help with that, only what she first contacted us about – in other words her complaint about disputed payments on her TSB accounts. Miss J sent a very long response, setting out that TSB was ignoring her. She said she needed extra help because of her mental health and TSB had agreed and offered to talk to her at a branch. She didn't know whether the branch had sent her marked-up statements to TSB's investigation team. She felt pushed out, ignored and uncared for. She said she had stopped phoning TSB daily because she got so stressed she wouldn't eat, then she got ill from lack of food, and stress kicks off her mental health issues.

## 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.

First, I'm very sorry to hear that Miss J has significant health problems, and that she has experienced significant stress.

I'll first explain what my decision can and can't cover. This service can look at complaints which have been first raised with a customer's bank, and which the bank has had a chance to reply to. So I can look at Miss J's complaint to TSB about the disputed transactions, but I can't look at her recent new issue about wanting TSB to refund her for a disagreement with an online retailer.

Miss J has also raised multiple points in what she's told this service. I've understood these and have considered all she's said and sent us, but in reaching my decision here I've focused on what I think is vital to my conclusions.

### *What the Regulations say*

There are regulations about disputed transactions, and they are what determines the outcome of a complaint about 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. The regulations also say that account holders can still be liable for unauthorised payments under certain circumstances – for example if they've failed to keep their details secure to such an extent that it can be termed "*gross negligence*."

And Regulation 74 of the Payment Services Regulations 2017 says that :

*"A payment service user [here, Miss J] is entitled to redress only if it notifies the payment service provider without undue delay, and in any event no later than 13 months after the debit date, on becoming aware of any unauthorised or incorrectly executed payment transaction."*

This means that what matters is whether the evidence shows it's more likely than not that Miss J, or a fraudulent third party, carried out the disputed transactions. It's also very relevant whether an account holder has kept their security details secure. And Miss J would have to have notified TSB that she was disputing a payment within 13 months of it happening.

### *What this means for Miss J's complaint*

Looking first at timescales, the first record I've seen of Miss J telling TSB that someone was stealing her identity, and disputing withdrawals, dates from August 2022. In her complaint form to this service, Miss J said there had been fraud from 2019, and the earliest date I've seen on the bank statements which Miss J marked up date from December 2020. Miss J hasn't sent us any written record of having told TSB, prior to August 2022, that she disputed withdrawals on her accounts. That means that TSB wouldn't have to consider any transactions earlier than 13 months before that – in other words, it only had to consider disputed transactions from July 2021 onwards.

Miss J asked us several times whether TSB received her marked-up statements. TSB sent us multiple marked-up statements. But TSB receiving the marked-up statements doesn't guarantee that Miss J would automatically then receive a refund for all the transactions she said she didn't make, or that she wasn't sure whether she'd made or not. What matters is

whether Miss J, or someone fraudulent, authorised the transactions. And to decide that, TSB's fraud department would have needed a lot more information from Miss J. To give just a few examples, it would have needed to talk to her about the whereabouts of her card, her device, and information about her security details and where she kept those. But unfortunately all the attempts for TSB's fraud department and Miss J to have a detailed conversation, didn't happen. So I find that TSB couldn't reasonably have made any findings about whether or not the disputed transactions were or weren't authorised by Miss J.

I recognise that Miss J told TSB, and this service, that she has significant mental health difficulties, and that there were times when communications were arranged which she then couldn't make because of health. I'm sorry to hear this, but unfortunately it was still necessary for TSB to obtain essential information in order to reach a decision about the circumstances of each disputed transaction.

Similarly, without the information, I can't decide who authorised the disputed transactions in line with what the Regulations say.

Usually, I'd expect to see a lot of detail about each individual disputed transaction. That includes technical computer evidence, but also what the account holder says about the circumstances of each individual transaction. That's as well as the information about how Miss J kept her card, devices, and security information.

It's also unusual to have so many disputed transactions over a long period. Normally, frauds are discovered by the account holder relatively quickly. And it's unusual to have disputed transactions at the same shops and retailers which the customer genuinely uses regularly, which is what Miss J says happened here. There are multiple transactions each day, often to the same recipient, where Miss J has marked that she authorised some but not others. Similarly, some recipient businesses were paid on one date which Miss J said she authorised – but on another date Miss J has marked the same recipient as unauthorised. These include a local grocery shop, an IT provider, and local chemist. While it's not impossible that some were authorised and others not, it would need a lot more information about each specific transaction, to reach that conclusion. TSB simply didn't have that here, and nor does this service.

I've considered whether TSB did what it could to try to make it possible for Miss J to provide the necessary information, in a way which was reasonable in view of her health difficulties. The contact notes show that there were many attempts: by phone, by email, by letter, by branch meeting, and by online meeting. None of these succeeded in obtaining the essential information. I've seen that Miss J has a mental health support worker, so I think that Miss J could have been helped by that person to provide the information, perhaps attending with her. So I find that TSB did as much as it reasonably could to obtain the essential information which it needed in order to make a decision about whether or not the disputed transactions were genuinely authorised by Miss J. This means that I don't uphold Miss J's complaint about TSB, either in respect of not refunding her for disputed transactions, or in respect of its speed of response or customer service.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 8 January 2025.

Belinda Knight

**Ombudsman**