

## **The complaint**

Mr S has complained Lloyds Bank plc won't refund him for cash machine withdrawals he didn't make.

## **What happened**

On 25 February Mr S went to a cash machine at a supermarket locally that he regularly used. He tried to withdraw £200 but this was declined.

Mr S was confused and believes that his card was retained by the cash machine. He also discussed this with someone who was in a van by the supermarket. They then opened a door next to the cash machine and took Mr S round to the back door of the supermarket. The bloke in the van then told Mr S there'd been no card caught in the cash machine and Mr S went home.

He quickly noticed six cash machine withdrawals totally £930 that he'd not made and complained to Lloyds. They didn't believe there was any explanation for how a third person knew Mr S's PIN so wouldn't refund him.

Mr S brought his complaint to the ombudsman service.

Our investigator agreed Lloyds had sufficient evidence to show Mr S most likely made these transactions.

Unhappy with this outcome, Mr S has asked an ombudsman to consider his complaint. Mr S's representative, his daughter, pointed to his long record of banking with Lloyds and confirmed her father was elderly and could have forgotten certain details of what happened.

I completed a provisional decision on 18 October 2024. I believed there was sufficient evidence to show Mr S hadn't made the disputed withdrawals.

Neither Mr S or Lloyds provided any further comments within the timescale for responses. I now have all I need to complete my final decision.

## **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 I did in my provisional decision. 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.

It's worth stating that I can choose which weight to place on the different types of evidence I review, including technical evidence, provided by financial institutions along with

complainants' persuasive testimony.

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 Mr 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.

To help me come to a decision, I've reviewed the evidence Lloyds provided as well as what Mr S's daughter has told us on his behalf.

I don't believe Mr S made or authorised these disputed cash machine withdrawals. I say this because:

- I believe there is a clear point of compromise. Mr S used his card along with his PIN to attempt to withdraw £200 from a cash machine he regularly used. There were insufficient funds in his account – as the credit he was waiting for from a regular income – had not hit his account at this stage.
- I see no reason to doubt Mr S when he says he believes his card was retained by the machine. This doesn't mean it was definitively, but I can see from his testimony that's what he believed. Within a short time, someone else was there and he raised his concerns about his card missing. It's worth noting that Mr S doesn't speak English. I think it's entirely possible this third party could have been much closer to Mr S at the time he used his PIN, saw that and was then able to con Mr S into thinking his card was retained by the machine.
- Mr S told us quite an elaborate story about a third party, a door being opened next to the cash machine and being taken to the supermarket's back door. I think it's completely feasible that during this time span Mr S's card was procured by the third party. Within minutes two withdrawals of £80 and £50 were taken from another cash machine reasonably close to where Mr S was.
- I'm aware Mr S told us he waited by the cash machine for about 10 minutes, but he may well not have been waiting exactly by the cash machine but by the back door as that's where he was taken by the third party. Mr S's daughter provided us with a series of photos following her father's explanation to her about what happened and his position at the time.
- The four cash machine withdrawals the following day took place at a cash machine completely the other side of town. There's nothing in Mr S's banking history, as shown by his statements, to suggest he ever uses a cash machine in that location. In fact Mr S's account use follows a very similar pattern on a regular basis. These four withdrawals don't fit into that pattern.
- The disputed withdrawals show the balance being checked and then transactions being declined. This all matches a fraudulent pattern.
- I think there was an opportunity for a third party close by to have seen Mr S's PIN and get hold of Mr S's debit card.
- I can see no explanation why Mr S, an older gentleman who's been a customer of Lloyds for many years, would suddenly make six cash machine withdrawals and then

deny this was him. This seems extremely out of character. I've also noted the story he told us is odd enough to be completely believable as it seems too convoluted to make up.

### **Putting things right**

I'm satisfied Lloyds doesn't have sufficient evidence to show Mr S authorised these disputed transactions. I will be asking them to refund £930 to Mr S, along with 8% simple interest from the date of the withdrawals to the date of settlement.

### **My final decision**

For the reasons given, my final decision is to instruct Lloyds Bank plc to:

- Refund £930 to Mr S for the disputed cash machine withdrawals; and
- Add 8% simple interest from 25 and 26 February 2024 to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 3 December 2024.

Sandra Quinn  
**Ombudsman**