

The complaint

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

What happened

On 1 February Mr A went to a cash machine but before he could make his request to withdraw cash, his card appeared to have been retained by the machine. He tried to get his card back but nothing was successful. There were people close by, but Mr A rejected their assistance.

Mr A went to a local police station to report his card was missing but was told he should do this over the phone.

Mr A then noticed four cash machine withdrawals he'd not made and asked Lloyds to refund him. They didn't believe there was any explanation for how a third person knew Mr A's PIN so wouldn't refund him.

Mr A brought his complaint to the ombudsman service.

Our investigator didn't think Lloyds had sufficient evidence to show Mr A made these transactions. She asked Lloyds to refund Mr A.

Lloyds remained unhappy with this outcome. Mr A's complaint has been referred to an ombudsman.

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 our investigator. 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 A'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 A has told us.

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

- I believe there is a clear point of compromise. Mr A used his card along with his PIN to attempt to withdraw cash. His testimony suggests there were people around and despite him taking steps to disguise his PIN as he input this, I think it's clear that an opportunity existed for someone who was trying to find out his PIN to do so.
- Despite requests Lloyds has been unable to show whether there were any issues with the cash machine. As our investigator stated it is possible that a device was fitted to the cash machine to trap Mr A's card.
- I'm aware that Mr A was a victim of fraud in September 2023. Lloyds referred to this as individuals distracting Mr A to get his card and PIN. He was refunded at this time. I note following that instance, Lloyds provided education to Mr A about how to keep his card and PIN secure. Unfortunately, this can never be foolproof.
- Lloyds has stated *"as Mr [A] has not followed the education given this left himself open to fraud. Due to this, we explained we would not refund this claim"*. I don't believe Lloyds has grounds under the PSRs to make this decision without providing any further evidence.

Putting things right

I'm satisfied Lloyds doesn't have sufficient evidence to show Mr A authorised these disputed transactions. I will be asking them to refund £800 to Mr A, along with 8% simple interest from the date of these withdrawals to the date of settlement.

My final decision

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

- Refund £800 to Mr A for the four disputed cash machine withdrawals; and
- Add 8% simple interest from 1 February 2024 to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 18 November 2024.

Sandra Quinn
Ombudsman