

The complaint

Ms C complained because Prepaid Financial Services Ltd (PFSL) refused to refund her for transactions she said she didn't make.

What happened

On 8 January 2024, Ms C emailed PFSL. She'd been on holiday abroad and had just returned. She told PFSL that her wallet, including her prepaid card, had been stolen from her hotel on 3 January. There had then been transactions for £913.20 and £580.82 the same day, which Ms C said she hadn't authorised. She completed PFSL's dispute form and also sent in a copy of the police report form.

Ms C chased PFSL for a reply, but didn't receive one. She complained on 19 January, but still didn't hear back.

In mid-May, she contacted this service, as she hadn't had a reply from PFSL. She told our investigator she'd arrived at the hotel abroad and had been told to wait as the room wasn't ready. She said she'd used a different card to pay her room deposit, and had put that card back with other cards in her wallet. She'd sat waiting in the hotel lobby, and then received bank notifications, and realised her wallet had been stolen. The wallet had contained her driving licence, five other cards and her PFSL card. Ms C went onto all her apps and cancelled all the other cards, so there were no fraudulent payments against the other cards, just the two from her PFSL card.

Ms C told our investigator that she didn't know her PIN, but still had it on a text message on her phone from when PFSL originally sent it to her. This was different to the PINs for all her other financial cards, and she said she hadn't written it down.

Our investigator didn't uphold Ms C's complaint. He said that he accepted that she'd reported the theft to the police abroad, and could see from what Ms C had sent in that she'd recently replaced her driving licence and other bank cards. But he said that the evidence from PFSL showed that the disputed payments had been authorised using Ms C's card and her PIN.

He considered how anyone else might have found out the PIN to carry out the disputed transactions. As there hadn't been any previous payments in January 2024, and Ms C had only just arrived in that city, he didn't think anyone could have seen Ms C using the PIN. He also considered whether anyone could have seen her using the PIN for any of her other cards – but she'd said the PIN was different to her other cards. So even if she'd been seen entering another card's PIN, that couldn't have enabled a fraudster to carry out the disputed PFSL transactions. And although Ms C had said the PIN was on a text message on her phone, her phone hadn't been stolen.

So the investigator concluded that Ms C had either given her PIN to someone, or her PIN had been recorded so that someone could access it. He said that customers have a responsibility to protect their account and keep cards and PINs safe. He'd had to consider

whether she'd been grossly negligent, and he concluded that she had. So PFSL didn't have to refund her.

Ms C didn't agree. She said she could confidently assert that there was no way her PIN could have been stolen. She said she'd never been involved with fraud before, and if she were, she'd never choose a prepaid card to start with. She said she'd been advised by a financial lawyer about various ways the transactions could have happened, and wanted the investigator to confirm definitively that none of these could have happened. She said she'd contact the hotel again and asked if it would help if they verified that she and her children had been staying there, or if she provided holiday photos or details of one of her children's medical records. She also wanted full details of the transactions, including what PIN had been entered, and said that PFSL's information might not fully capture the circumstances.

The investigator replied that the evidence he'd received showed that the payments had been made using the genuine card and PIN. He said that although Ms C had described some processes which merchants can use when processing transactions, there was no information to indicate this had happened.

Ms C said she'd contacted the retailer where the transactions had taken place, and it had confirmed that the genuine card was used but not the PIN. She sent a copy of the transaction which the retailer had sent her. She asked why this service hadn't been in touch with the retailer.

The investigator replied that he didn't consider it necessary to contact the retailer, because from the information he'd seen, he was satisfied that the payments had been made using the genuine PIN. Ms C sent a copy of an email, which she said the retailer had sent her and which said no PIN had been used for the transactions. This didn't change the investigator's view. He said that further technical information from PFSL had satisfied him that the payments had been authorised using the genuine card and correct PIN.

Ms C didn't accept this and both Ms C and PFSL asked for an ombudsman's 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.

What the Regulations say

There are regulations which govern disputed transactions. The relevant regulations here are the Payment Services Regulations 2017. In general terms, the financial payment organisation 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*."

This means that what determines the outcome here is who is more likely than not to have carried out the disputed transactions. In other words, whether it's more likely to have been a third party fraudster who had obtained Ms C's card and PIN, or Ms C herself, or someone to whom she allowed access to her card and PIN, or someone who obtained it if Ms C had been grossly negligent with her security details.

Who is more likely than not to have carried out the disputed transactions?

To determine who is most likely to have carried out the disputed transactions, I've relied on the technical computer evidence of the transactions.

Ms C told us, and the local police abroad, that her wallet had been stolen. That could explain how her genuine card was used to make the transactions. But the technical evidence also clearly shows in detail how they were authenticated. The codes used are standard payment codes, and are not specific to PFSL. They are independently computer generated and not produced by PFSL itself. The detailed information shows that as well as the genuine card with its unique chip, a PIN was correctly entered for both disputed transactions.

I recognise that Ms C has sent us a copy of a transaction document which she said the retailer provided to her. But this doesn't say whether or not a PIN was used. I have noted the email which she said the retailer provided to her, saying that a PIN was not used. But I have to balance this against the strong technical computer evidence that shows that both the genuine card with its unique chip, and Ms C's correct PIN, were used to authorise the transactions. It would not be possible for any hypothetical fraudster correctly to guess Ms C's PIN, because there are 10,000 possible combinations of any four-digit number. So I accept that whoever made the transactions knew Ms C's PIN and entered it correctly.

If Ms C did not carry out the transactions herself, to uphold her complaint I would need to identify a plausible way in which a third party might have obtained the PIN to go with the stolen card. I haven't been able to do so. Ms C said she didn't write this number down and it wasn't recorded anywhere in the wallet which was stolen. She said it was in a text message on her phone, but her phone wasn't stolen. And I don't consider it's likely anyone else could have obtained the PIN number by "shoulder surfing" her (looking over her shoulder to read the number) when she'd been making a previous transaction, because she'd only just arrived at that location and hadn't made any immediately previous genuine transactions.

So I can't see how any fraudster could have obtained the correct PIN which was used with the stolen card.

Logically, this just leaves the options that Ms C carried out the disputed transactions herself; or she gave someone else access to her information; or that she did leave a record of the PIN within the wallet with her card which enabled the thief to know the PIN. Whichever of these is correct, they all mean that Ms C is liable for the transactions.

Finally, Ms C suggested that we should look at other evidence. She sent some suggestions about transactions, which she said her financial lawyer had provided, and asked why we hadn't written to the retailer abroad ourselves. She also offered holiday photos or medical evidence about one of her children. I've noted her suggestions, but ultimately they aren't relevant to what really determines the outcome. What matters is who is more likely than not to have carried out the disputed transactions. The technical computer evidence is independent and couldn't have been changed by PFSL, and it shows that the genuine card and correct PIN were used. The retailer, or other evidence suggested, can't alter that key evidence.

Also, in her emails with this service, Ms C also said that she wanted £94.04 of phone calls abroad to be included with her claim. I can't see that she raised this with PFSL first, as the regulations require. But in any case, as I haven't upheld her complaint for a refund of the disputed transactions, I also don't uphold her request for a refund of the calls.

So my final decision is that I do not uphold this complaint.

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Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 15 November 2024.

Belinda Knight
Ombudsman