

## **The complaint**

Mrs R complained because Lloyds Bank PLC refused to refund her for transactions she said she hadn't made.

## **What happened**

In August 2024, Mrs R went to her local branch about her Lloyds Gold account. She hadn't received a new card, so she went to ask about it.

The branch told her that the account had been closed, and there wasn't any money in it. Mrs R said that the balance on 13 June 2014, when probate money had funded the account, had been £29,838.42. She said that between 4 September 2017 and 26 March 2020, the date of the last genuine transaction, she could account for £2,827 in withdrawals – but the others hadn't been made by her. Mrs R complained.

Mrs R also told Lloyds that she'd never received any statements to her home address, and the problem hadn't come to light until she'd asked the branch why she hadn't received a new card. The statements which Lloyds had since sent showed money had been leaving her account at regular intervals. Mrs R said that if she'd had the statements, she'd have seen the problem immediately, but instead she'd had no correspondence or contact from Lloyds. She was also unhappy about the customer service she'd received when she'd phoned Lloyds after going to the branch, and said the adviser had virtually said it was her fault. Mrs R said this had caused her anguish and stress.

Lloyds didn't uphold Mrs R's complaint. In its final response letter, it said that the account had had a credit balance, but this had been used, and on 1 February 2022 it had gone overdrawn with the monthly account fee. Lloyds said that as the account hadn't been brought up to date, it had closed the account on 18 July 2022. At that point there had been a debit balance owed to Lloyds of £37.93, which Lloyds had written off.

Lloyds said it understood it was difficult because Mrs R had reviewed the statements and had noticed transactions she disputed from many years before the account was closed. It explained that to log a claim for fraudulent activity, customers must do so within 13 months of the disputed transaction, and to dispute debit card transactions the timescale was 120 days after the disputed transaction. So it couldn't log this as a fraud claim. Statements had been sent to Mrs R's address throughout the period, which gave her the opportunity to monitor the account and contact Lloyds within the appropriate timescale.

Mrs R wasn't satisfied, and represented by her husband, she contacted this service. They explained that they both have separate current accounts with Lloyds, so hadn't used this account for general spending, only for occasional purchases. They repeated that they'd never received statements and hadn't known about the withdrawals until they'd gone to the branch to ask why they hadn't had a replacement card.

Our investigator didn't uphold Mrs R's complaint. She explained that the regulations say that customers have to report disputed payments as soon as possible, and within 13 months of the transaction. Mrs R had said she'd made some genuine transactions, but very

infrequently. She'd also said she hadn't received any correspondence, but Lloyds had shown it had sent statements to the correct address. It had also sent letters from its Collections team (responsible for recovering overdue amounts) between October 2019 and June 2022.

But the investigator had seen that there had been activity on the account which contradicted letters not being received. On 1 June 2021, the account went into unarranged overdraft for the first time, and the next day £40 was paid in to bring the account back into credit. A similar pattern happened in September and November with the account going into overdraft and money being paid in to bring it back into credit. From February 2022, the account was going further and further into overdraft but no money was being paid in. A note had been added to Lloyds' system on 30 June 2022, which said that Mrs R's husband had reported that Mrs R had been ill with Covid, so hadn't been able to make payments in. He'd said the debt would be paid in two parts, and he'd paid the first on 28 June 2022. Lloyds had then closed the account and written off the remaining debit balance.

So the investigator said this suggested Mrs R had been aware of the negative balance and was taking steps to pay it off. The investigator considered Mrs R should have been aware that the £29,000 balance in the account had been used, and she should also have been aware that there had been transactions she hadn't recognised. This meant that from June 2021, she'd known the account balance had been drained – but hadn't reported a dispute until August 2024. That was more than the 13 months set out in regulations, so Lloyds didn't have to raise a fraud case and investigate.

Mrs R, represented by her husband, didn't agree. Mr R said that the investigator had heavily sided with Lloyds, and asked whether the investigator really thought that they wouldn't have reported it if they'd known what was happening? He said it was fine for Lloyds to say it could only deal with complaints in a 13 month window, but not when they hadn't received statements to check. He asked why Lloyds hadn't phoned about the transactions, as it did about anything on their current accounts. He said that at the time of the deposits, he hadn't been aware of an overdraft. Nor had he heard anything from Lloyds after it had closed the account in 2022. He believed Lloyds was hiding behind the convenient regulations, and said the local branch manager had been horrified about what had happened.

Mrs R asked for an ombudsman's 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 relevant regulations say*

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. 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*."

A key part of the Payment Services Regulations 2017 in relation to Mrs R's complaint, is Regulation 74. This says:

*'A payment service user 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.'*

Customers may be liable for transactions made after they ought reasonably to have reported any disputes.

#### *What this means for Mrs R's complaint*

I've considered whether Lloyds acted fairly and reasonably when it refused to investigate Mrs R's disputed transactions, saying it was because she hadn't reported the disputed transactions earlier, and within 13 months of them happening. As part of this, I've carefully considered why she might have waited so long before querying the activity on her account, in order to decide what's fair and reasonable in all the circumstances of this complaint.

Mrs R says that she never received any statements for this account, and that's why she didn't know there was a problem and didn't report it sooner. Lloyds says it sent statements monthly. It also says it sent letters when the account went overdrawn in June 2021, and again when the account went back into overdraft and when Lloyds subsequently wrote off the debit balance and closed the account in July 2022.

I can't know for certain whether or not the post delivered these statements and letters to Mrs R. I have, however, checked what Lloyds had on its records as Mrs R's address. It matches the address she gave us, and it also matches the address on the complaint letters sent to Lloyds. So I accept that the statements and letters were sent to the right address.

A key factor here is what happened when the account went into unarranged overdraft several times in 2021. This first happened on 1 June, and the next day Mr R paid in £40 cash which brought the balance back into credit. There were similar credits over the next few months as the account went into overdraft again.

I'm not persuaded by what Mr R said about these credits after the account went into overdraft. He said that at the time of the credits, he hadn't been aware of the overdraft and *"money was paid in as...on my current account as a matter of course."* There hadn't been any other credits to Mrs R's account since 2012, so there was nothing routine about the 2021 credits. I consider Mr R, and presumably Mrs R too, must have known about the overdrawn balance on the account when he started making payments into the account in 2021 to bring the account back into a credit balance. It's just not probable that he didn't at that point know about the overdraft, but suddenly started making credits which were just enough to bring it into credit.

It's also important what **didn't** happen at that point in 2021 when the account went overdrawn and credits were paid in by Mr R to bring it back into credit. I consider both must have known about the overdraft at that point, for the reasons above. But Mrs R didn't raise a dispute about any of the many debits to the account, or query why the account was overdrawn. Even if for some reason Mrs R hadn't seen the statements which Lloyds had been sending to her address, when she found out about the overdraft I'd have expected her to ask what had been happening at that point. She didn't query the balance until over two years later, in August 2024.

It's also unclear why Mrs R didn't ask Lloyds why she wasn't receiving statements on the account, especially in the early years when she'd made genuine transactions so knew there had been activity on the account. She had another Lloyds account, so she would have known that statements were normally sent out.

Taking this into account, I consider it's more likely than not that Lloyds sent the monthly statements, and overdraft letters, to Mrs R's correct address. Mrs R hasn't told us about any general problem with post reaching her address, and it's unlikely that the post wouldn't have delivered any of the statements over the years. If someone intercepted these so that Mrs R

never received them, it unfortunately means that it's most likely this was someone with regular access to her home, such as a family member, friend, or other trusted person such as a domestic helper. But Mrs R hasn't suggested this as a possibility.

I've looked at the transactions on the account. I don't have all the usual technical details of these, because Lloyds no longer has the records after such a long time. I also haven't been told exactly which transactions Mrs R disputes, only the total which she recognises. But the statements show that most of the withdrawals were cash withdrawals at cash machines, with other debit card payments. This means that whoever made the transactions had access to the genuine card with its unique embedded chip, and to the correct PIN. Mrs R hadn't reported her card as lost or stolen. And a four digit PIN has 10,000 possible combinations – so anyone who might have repeatedly taken and returned Mrs R's card, without her knowledge, couldn't have guessed the PIN. They'd have had to have been told it by Mrs R, or have seen it written down by her. I can't know for sure whether this happened because the transactions were so long ago, but if Mrs R did disclose her PIN to someone else, it would count as a breach of the terms and conditions of the account in relation to keeping security information private and secure.

After the investigator's view, Mr R, on behalf of his wife, asked why there hadn't been any phone calls. He said that Lloyds made calls about their other accounts, which were current accounts, but not on Mrs R's Gold Account, and he asked why. I've looked at the pattern of the transactions on the account. There were many cash withdrawals. For example, on 13 September 2017, there was a £200 cash withdrawal followed by around 30 more cash withdrawals before the end of the year. This pattern continued, with some debit card withdrawals as well.

I've considered whether Lloyds should have intervened, by phoning as Mr R suggests. But I don't find Lloyds needed to do so. There were regular relatively low value cash withdrawals and some card payments. There were also cash withdrawals of a similar value going back to 2012, so these weren't unusual for the account. They just became more frequent. So I don't consider Lloyds had cause to intervene.

For these reasons, I consider it's most likely that Mrs R, or someone who whom she allowed access to her card and security details, carried out the disputed transactions. This means that Lloyds doesn't have to refund her.

### **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 Mrs R to accept or reject my decision before 24 April 2025.

Belinda Knight  
**Ombudsman**