

The complaint

Mr H complains on behalf of his mother (Mrs H) that Lloyds Bank PLC didn't do enough to prevent the loss she suffered when a third party made transfers from her account.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of the key events here.

Between 2019 and 2021 a total of around £21,000 of payments were made from Mrs H's account which Mr H has said weren't authorised by her. On 13 December 2021, a Lasting Power of Attorney (LPA) was set up on Mrs H's account. Then throughout 2022 further transactions were made from Mrs H's account to the LPA totalling around £23,000. In May 2023 Mr H went into a Lloyds branch and discovered Mrs H didn't have any money left in her account. The police were contacted, and the LPA was removed from Mrs H's account on 09 May 2023.

A complaint was made to Lloyds requesting the return of Mrs H's money on 06 February 2024. Lloyds reviewed the complaint but said it wasn't going to return Mrs H's money as the payments that had been made after the LPA was registered on the account wouldn't have been considered suspicious to it as the LPA had the authority to make payments on the account.

Unhappy with that response a complaint was brought to the Financial Ombudsman. Our Investigator didn't think the complaint should be upheld. She said that the payments that were made before the LPA was registered on the account were unauthorised and therefore out of time to be refunded by Lloyds under the Payment Services Regulations 2017 (PSRs) because it had been more than thirteen months since the unauthorised payments. And she didn't think the payments that were made in 2022 were so unusual for the account that Lloyds should've done more to stop them.

Mr H – on Mrs H's behalf - disagreed and asked for an Ombudsman's review. He said it was unfair for the part of the complaint to be considered out of time under the PSRs and that Lloyds should've done more to stop the payments that were made in 2022.

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.

I'm sorry to hear about what has happened to Mrs H, and I don't underestimate the impact this has had on her. I understand there is a criminal court case against the LPA which is a separate investigation into the LPA's role in the removal of Mrs H's money. Here, I must consider whether Lloyds is responsible for the loss she has suffered not the LPA. And while I realise this isn't the outcome she is hoping for, for similar reasons as our Investigator, I don't think it is. I therefore don't think Lloyds has acted unfairly by not refunding the payments. I'll explain why.

I've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

Where the evidence is incomplete, inconclusive, or contradictory (as it is here), I have to make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

The relevant law in relation to the unauthorised payments is the Payment Services Regulations 2017 – this sets out when a customer is entitled to redress for unauthorised transactions. It says that the payment service user (here Mrs H) is only entitled to redress if she notifies the payment service provider (Lloyds) without undue delay, and in any event no later than 13 months after the date of the disputed payments.

The terms and conditions of Mrs H's account also says in relation to disputed payments;

“To get a refund you must tell us about the unauthorised payment within 13 months of it being taken from your account.”

This means that I can't reasonably ask Lloyds to refund any of the unauthorised payments Mr H has raised on his mother's behalf before the LPA was registered on the account in December 2021 unless there were extenuating circumstances. Mrs H has said that she had access to her account at the time of the disputed payments. She has mentioned that the LPA was intercepting her statements in November 2021 and that this was raised with her sons at the time with no further action being taken before the payments were raised in May 2023 when she went into the branch with Mr H. Mrs H has said that having the LPA on her account was only precautionary if she lost capacity and I can see in 2020 Mrs H communicating with Lloyds by herself when she lost her debit cards. There were also genuine payments made online via faster payment to her other sons after some of the disputed payments. So, I'm satisfied Mrs H had access to her account online during the period of the unauthorised payments. So, I don't think I can reasonably say to Lloyds there were extenuating circumstances that meant these payments weren't noticed within the thirteen-month deadline.

The payments that have been disputed in 2022 were made when Mrs H had an LPA set up on her account. As the investigator has correctly pointed out, under the PSRs Mrs H can have someone else initiate a payment on her behalf which would be deemed an authorised payment. And that Mrs H is liable for all authorised payments.

So, I've considered whether Lloyds should've done more to stop the payments that were made by the LPA on Mrs H's account in 2022. In order to do so Lloyds would need to deem the payments made by the LPA as suspicious or unusual compared to her previous account activity. So, I've reviewed the statements to see if the payments the LPA made were reasonably suspicious and unusual. Having done so I don't think the payments were unusual for Mrs H's account. By the time the LPA was set up the LPA was established payee on the account who had previously received similar sized payments from Mrs H which haven't been disputed.

I note that Mrs H's bonds were withdrawn and then paid into her account in order to finance the payments to the LPA. But these payments took place almost over the entirety of 2022. So, given that they were spread out and weren't unusual in payment size, I don't think these

would've seemed sufficiently unusual and suspicious for Lloyds to reasonably believe that something untoward was happening with Mrs H's account.

I have a great deal of sympathy for Mrs H and the loss she suffered. But it would only be fair for me to direct Lloyds to refund the loss if I thought it was responsible – and I'm not persuaded that this was the case. For the above reasons, I don't think Lloyds has acted unreasonably and so I'm not going to tell it to do anything further.

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 H to accept or reject my decision before 26 May 2025.

Mark Dobson
Ombudsman