

The complaint

Mr A complained because MBNA Limited refused to refund transactions which took place after Mrs A's card was stolen.

What happened

Mr A has an MBNA credit card. His wife Mrs A is an authorised user on the account, and she has a card on the account.

On 22 February 2025, Mr and Mrs A were in a city shopping centre. Mrs A was sitting on a bench, and the area was crowded. Mrs A's bag was stolen. Her MBNA card, and other bank cards, were in the bag. Shortly after the theft, there were five debits using Mrs A's MBNA card, which she didn't authorise. There were two £250 cash withdrawals with two associated £12.50 cash withdrawal fees, and £40 at a grocery, making a total of £565. The interest charged on these made the total loss slightly higher than this. All the withdrawals were made using Mrs A's genuine card, and her correct PIN.

Mr A reported the theft promptly to MBNA, and asked for a refund of the fraudulent transactions. Mrs A's card was cancelled and reissued. There were further attempted withdrawals, which didn't go through.

MBNA refused to refund Mr A. He complained.

MBNA sent its final response to Mr A's complaint on 27 March. It said that when Mr A had reported the problem, he'd confirmed that Mrs A hadn't written down her PIN or shared it with anyone. He'd also said he didn't know how anyone else could have been able to find out Mrs A's PIN. MBNA said that as it couldn't see how anyone else could have obtained Mrs A's PIN, it couldn't conclude the payments had been fraudulent and didn't provide a refund.

Mr A had also told MBNA that he'd found out that there was CCTV footage of the person who had stolen Mrs A's bag, using it in the grocery shop. MBNA said it recommended he should speak to the police about this.

MBNA also provided advice about keeping the PIN safe, including not writing it down; not telling anyone; destroying the PIN notification from the bank; not storing the PIN with the card; and changing it if it's suspected that someone might know it.

Mr A wasn't satisfied with MBNA's final response, and contacted this service. He explained what had happened, and said the refusal had caused financial distress, and his wife was traumatised by thoughts about how the card had been stolen and why it had happened to her.

Mr A said that MBNA had failed in its duty to protect him as a consumer. He said it was unfair not to refund the unauthorised transactions, despite the fact he'd reported them immediately. He'd also contacted the police. He said he'd been a long-term MBNA customer and had never had a previous claim. He said that they'd since been to the grocery shop

where the card had been used, and the shop had said they'd have a video, which they'd reported to the police. Mr A also said that as a result of the theft of Mrs A's bag, money had also been from Mrs A's account with another bank – and that bank had immediately refunded Mrs A.

Our investigator didn't uphold Mr A's complaint. She said there wasn't any dispute that Mrs A's card had been stolen. MBNA's computer evidence showed that this genuine card had been used for the transactions – the genuine chip had been read, and the PIN had been entered to authorise the payments.

The investigator asked Mrs A about the PIN, including whether it was guessable, whether it was the same as anything else, and whether it was written down or stored. Mrs A had said that the PIN was what had been issued with her card, and it wasn't the same as anything else or stored anywhere.

The investigator also considered whether the PIN might have been "shoulder surfed" – in other words, that someone might have seen Mrs A entering it on another transaction. But the account transactions showed there hadn't been any genuine transactions using the PIN before the theft. So the investigator couldn't say how a third party would have been able to steal the card and guess the PIN without any incorrect attempts, unless it had been kept with the card. So the investigator said she couldn't ask MBNA to refund the disputed transactions.

Mr A didn't agree.

He said it felt totally unfair and MBNA knew that it wasn't his wife's fault, and they had no idea how the thief got the PIN number. He said that the police knew there was a video of the person who stole the card and used it in the grocery store. The grocery store staff member also told Mr and Mrs A that they'd tell the police everything they knew. So Mr and Mrs A said everything had been clear, but MBNA hadn't given them a fair outcome. Mr A said he'd cancel his long-term account as a result.

Mr A also said that he believed an important factor that wasn't considered was their engagement with the police, who had been reviewing evidence. He also said they were questioning the evidence that showed Mrs A's PIN was compromised. He said they believed the thief might have used online scam techniques to guess or obtain the PIN.

He said they also didn't understand why MBNA's approach was different from the other bank. Mrs A's card with that bank had also been stolen and money taken, but that bank had refunded it. Mr A said that suggested MBNA hadn't meet its obligations. Also, neither Mr or Mrs A had used their MBNA cards to withdraw cash for the last 15 years. They believed that MBNA should have locked the card when the first £250 cash withdrawal had been attempted, to protect them, but it failed to do so.

Mr A 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.

First, I'm very sorry to hear that Mrs A was a victim of crime, and that this has been such a difficult time for Mr and Mrs A. I do understand this is very upsetting.

I have to consider this complaint based on what the Regulations and Terms and Conditions say about whether the bank, or the customer, is liable for the loss.

What the Regulations, and account Terms and Conditions, 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.

Here, MBNA's Final Response to Mr A's complaint said that it believed the payments were genuine – in other words, that Mrs A used the card herself. I don't agree with that. I consider it's clear that Mrs A was a victim of crime and she didn't authorise the disputed payments herself, which I believe were made by the thief.

But the regulations also say that account holders can still be liable for unauthorised payments under certain circumstances. One example of this is if they've failed to keep their details – such as the PIN – secure to such an extent that, in legal language, it can be termed "*gross negligence*." This is reflected in the Terms and Conditions of the MBNA account, to which customers sign up when they open an account.

MBNA's Terms and Conditions say, under section B2:

'Keeping your account safe. Always keep your card details safe, and make sure nobody else can use them without permission. These include your card, card details, PIN, passwords and passcodes. If you store your details electronically, such as in a digital wallet, you must keep your device safe too.'

How was the thief able to make the payments with Mrs A's card?

As I accept that neither Mr or Mrs A made the disputed payments, I need to consider how the thief could have made the payments. The technical computer evidence shows that they were made using Mrs A's genuine card, and her correct PIN. The card had been stolen, so we can understand how the thief obtained that. But how the thief knew the PIN is much more of a problem.

Mr and Mrs A said that the PIN wasn't written down, and it was the same one that MBNA had originally issued, and wasn't a simple easily-guessable number. MBNA's PINs are four digits long. There are 10,000 possible combinations of any four digit number. So the thief couldn't have guessed the PIN.

As I've set out above, our investigator also considered whether the thief might have seen Mrs A using her card and PIN, and memorised the number before stealing the card ("shoulder surfing"). But there weren't any transactions earlier that day, let alone ones using the PIN.

Mr A's suggestion is that the thief could have used "*online scam techniques to guess or obtain the PIN*." A scam is where someone tricks the consumer into giving away information or money. But Mr A hasn't suggested that they had any online messages, or calls, asking for Mrs A's PIN or that she then provided the PIN. It would also be unlikely that anyone tricking Mrs A into disclosing her PIN would then follow her around for an unknown length of time until they had a chance to steal her bag. And as I've explained, there are 10,000 possible combinations of any four digit number, so I don't consider the thief could have guessed the PIN.

Unfortunately, this only leaves the fact that the PIN must have been disclosed in some way in Mrs A's bag which was stolen. There are lots of options and I can't know how this

information was available. It might have been a copy of the original MBNA PIN-notification document, or jotted down, even if this was in a diary in the bag under, say, "P" for PIN or "C" for card." If her phone was in the bag and also stolen, the number might have been stored on the phone. In all of these circumstances, or any other way in which the PIN was available in the bag, the liability would be with Mr A as the account holder, because it would count as not keeping the account details secure.

Other points

Mr A said he doesn't understand why the other bank provided a refund when money was stolen, but MBNA didn't. He helpfully provided information about the refund, and I can see the other bank did provide a refund for a cash withdrawal at a similar date and time. But I can't comment on why that bank did provide a refund. I can only consider whether MBNA acted within the regulations and terms and conditions, when it refused a refund.

Mr A also told us that he'd reported the theft to the police, and had contacted the grocery shop. I'm persuaded that this backs up my belief that there genuinely was a theft. But it can't change what the regulations and terms and conditions say about whether the consumer, or the bank, is liable when a thief uses a PIN which needs to be kept secret.

Mr A also said that as neither he nor his wife had withdrawn cash on the credit card in 15 years, MBNA should have locked the card when the cash withdrawal was attempted. I sympathise with how Mr and Mrs A feel about this. But banks do have a responsibility to make payments which consumers instruct them to, and here, the use of the genuine card, and the correct PIN, would have meant that MBNA's computer system wouldn't have seen cash withdrawals as high risk. Also, the value of the transactions weren't at a level where I'd expect MBNA to have done anything more. It's the combination of correct PIN and the relatively low amounts that mean we wouldn't expect MBNA to have been so concerned that it should have done more.

Conclusion

I do recognise that this has been a very distressing time for Mr and Mrs A. I accept that Mrs A was genuinely a victim of crime here. But I can't see how her PIN could have been obtained and used by the thief, unless it was available in Mrs A's stolen bag. So it's not open to me to uphold this complaint.

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 Mr A to accept or reject my decision before 28 January 2026.

Belinda Knight
Ombudsman