

## **The complaint**

Mrs H complains TSB Bank Plc has refused to refund transactions made from her account which she says were unauthorised.

Mrs H is represented in this complaint by her daughter, Mrs W.

## **What happened**

Between 2018 and 2023, regular cash withdrawals were made from Mrs H's account (which at the time was a joint account with the late Mr H). In March 2023, Mr and Mrs H appointed one of their daughters, Mrs W, to act for them under a Lasting Power of Attorney, she discovered approximately £94,000 had been taken from the account which she thought shouldn't have been. So she reported these transactions to TSB as fraudulent.

Mrs W explained she was aware the transactions had been made by three of Mr and Mrs H's other children, "the carers", who'd had access to the cards on the account because they were, at the time, caring for Mr and Mrs H who were largely housebound.

TSB looked into the transactions. It said it felt it was a Police matter and so wouldn't be refunding the transactions. Following a complaint, TSB still refused to refund the transactions so Mrs W referred the complaint to our service.

An Investigator considered the circumstances. She said, in summary, there appeared to be no dispute that the cards and PINs used to make the transactions had been given by Mr and Mrs H to the three children suspected of having made the transactions. And, in those circumstances, even if those people made transactions they weren't supposed to that Mr and Mrs H didn't know about, Mrs H could be held liable for the transactions. So she didn't think TSB had treated her unfairly.

Mrs W responded to say:

- The carers did not have permission from Mr and Mrs H to make cash withdrawals, only to purchase groceries at the supermarket.
- Mrs W had discovered excess amounts of cash being taken as early as 2020 and discussed this with her brother, Mr H2. Mr H2 contacted TSB and informed them of Mr and Mrs H's vulnerabilities. He asked for the current cards to be cancelled and to be informed by TSB when new ones were issued, so he could ensure they weren't then given to the carers again. TSB did not inform Mr H2 of the new cards being issued. So the carers obtained them again and continued to make the disputed cash withdrawals.

Mrs W asked that the case was referred to an Ombudsman for review. So the complaint was passed to me.

I issued a provisional decision. I've set out my findings again below and they form part of this decision.

## Provisional findings

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*Under the Payment Services Regulations 2017 ("PSRs"), generally, TSB can hold Mrs H and the late Mr H (in relation to any transactions made on his debit card) liable for the disputed transactions if the evidence suggests that they made or authorised the transactions. Or if the transactions were made with the apparent authority of Mr or Mrs H.*

*Were the transactions authorised?*

*There's no dispute that the genuine cards and PINs were used to make the disputed withdrawals and TSB's technical evidence supports this. There's also no dispute that the carers came to be in the possession of the cards and PINs because Mr and Mrs H gave them to the carers.*

*Mrs W says the carers were only supposed to be doing the grocery shopping with the cards and PINs. She says no authority was given for any cash withdrawals. However, when she first submitted the complaint to our service she provided highlighted bank statements indicating some cash withdrawals that might have been authorised – though she did say she wasn't sure what her parents would've needed any cash for since their bills were all paid by direct debit and their shopping was paid for by card. As it seems Mrs W wasn't present on the occasions cards and PINs were shared with the carers, I don't think she can say with certainty what her parents intended the carers to use them for specifically, but I don't think this makes a difference to the outcome of the complaint. I'll explain why.*

*Under the PSRs, if someone gives another party their card and PIN this means that party can make transactions as though they are the cardholder themselves. And in these circumstances the cardholder can be held liable for any transactions made by the other party, even if the cardholder didn't give permission for specific transactions to be made or know about them.*

*Mrs W has said both Mr and Mrs H were elderly, frail and Mrs H was suffering from dementia. I accept that this will have meant Mr and Mrs H were vulnerable and likely would have played a part in their decision to give the cards and PINs to the carers. But their vulnerability doesn't automatically negate their decision to do so. And despite their vulnerabilities and Mrs H's dementia, Mr and Mrs H must still have been capable of making their own decisions – because they later appointed Mrs W to act for them under a Lasting Power of Attorney (which can't be done if someone has lost capacity). Ultimately it seems Mr and Mrs H gave the cards and PINs to the carers because they felt they had to, because they needed help with things like shopping as they couldn't get out themselves.*

*So, in the case of Mrs H, she and Mr H had given their cards and PINs to their carers. The stated purpose of this was so the carers could do the shopping for them because they weren't able to do this themselves. But, it's alleged the carers took cash for themselves from the account. But since the carers were only able to do that because Mr and Mrs H had handed over their cards and PINs, they can be held liable for any transactions made by the carers. So, in these circumstances I don't find TSB has acted unfairly by refusing to refund them.*

*The November 2020 call*

*In November 2020, it seems some of the disputed activity was discovered. Mr H called the bank, with Mr H2, on 25 November 2020. TSB has provided a recording of this call and I've listened to it.*

*During this call, Mr H2 explains that he'd become aware of a lot of money coming out of the account that his parents weren't aware of. He wanted TSB to cancel the current cards which were in the possession of the carers and Mr and Mrs H no longer had control of. Mr H2 said he intended for Mr and Mrs H to give him the card as and when they needed him to get something for them. Mr H2 went on to say that the money that had been taken so far was a family issue, the transactions were not reported as unauthorised at that time. During this call, only Mr H's card was cancelled and a new one ordered. TSB told Mr H2 that he'd need to call back to complete the same process for Mrs H's card.*

*TSB said it can't find a corresponding call relating to the same request being made for Mrs H's card.*

*TSB can't provide card and PIN histories going back to 2020. But I think a new card was issued for Mr H after this call, because the audit reports show the last use of a card on this day. But it's not clear, from the evidence I've seen, whether a new card was issued for Mrs H in November 2020 – though I understand Mrs W believes one was. Either way, I don't think this makes a difference to the overall outcome of the complaint.*

*If a new card wasn't issued for Mrs H, then the carers presumably continued to use the existing one already in their possession. And this ties in with the audit reports for one of the cards, showing it being used from July 2019 until October 2023. Either way, all parties agree that all cards and PINs that the carers used were in their possession with the consent of Mr and Mrs H and I've already explained above why, in those circumstances, TSB isn't obliged to refund the transactions.*

*TSB also told Mr H2 during the call the new card would arrive at Mr and Mrs H's address in the next few days and the new PIN shortly after that. So although Mrs W says TSB agreed to tell Mr H2 when the cards were being issued so he could prevent them falling into the carers' hands, I don't think TSB agreed to do that and nor do I think that would've been reasonable. But he had been told during this conversation the timescale for the cards and PINs to arrive. And, in any event, I don't think TSB could have reasonably given him anything more definitive than that – as it wouldn't be able to say precisely when the cards would arrive.*

*Should TSB have intervened in the payments?*

*Mrs W also says TSB ought to have flagged the transactions as suspicious and had they notified Mr and Mrs H, they would have taken more notice of this rather than of the warnings Mrs W and Mr H2 had given. She also said Mrs H was suffering with dementia by 2020. And that TSB were on notice that both Mr and Mrs H were vulnerable and housebound.*

*I've considered the pattern of transactions. I do understand why Mrs W thinks they were out of character for the account but considering the amounts (mostly between £100 and £200 per withdrawal) and that the transactions were mostly made a few days apart; I don't think this pattern of use was so significantly out of character that TSB ought to have intervened in the payments. And, eventually, because the activity went on for a number of years, it then became usual activity for the account.*

*I also understand why Mrs W thinks it should have been obvious to TSB, because it was aware they were both housebound. But at the time, Mr and Mrs H still wanted to run the account themselves and have cards issued in their names. And, during the call in November 2020, they'd told TSB they planned to ask others to use the cards on their behalf, when they*

*needed something and genuine transactions were made in this way e.g. the shopping. So I don't think it would be reasonable to say TSB ought to have been concerned about transactions made using the cards outside the home, given what Mr and Mrs H had told them.*

*Even if I did find TSB ought to have intervened in the disputed cash withdrawals, I'm not sure notification from TSB would have prompted a different response from Mr and Mrs H. Mrs W has also said that TSB's failure to take action in relation to the activity on Mr and Mrs H's account has meant that they were forced to involve the police, which has caused irreparable family damage.*

*I accept that this situation has likely caused a significant family dispute. But ultimately, that situation has arisen because the carers have allegedly made transactions on Mr and Mrs H's account that they weren't supposed to, which they've then been challenged about and reported to the police. The decision to report matters to the police was down to the individual(s) who made the report. And I've already explained why I don't think TSB made a mistake by not contacting Mr and Mrs H about the payments, so I don't find it would be fair or reasonable to say TSB is responsible for that and the subsequent impact it had on the family.*

*Mrs W has told us that a similar exercise was conducted in 2023, when the cards were again cancelled and reissued. But Mr H, Mrs W says under pressure from the carers, again requested new cards which were handed over to the carers once more. So even if TSB had contacted them about the transactions and cancelled the cards, I think it's more likely than not Mr and Mrs H would have continued giving them to the carers, because as Mrs W has said, they trusted them and felt they had no choice as they needed the help.*

*It looks like Mrs W and Mr H2 attempted on several occasions to alert their parents as to what was happening on their account and encourage them to take steps to stop it. But, to no avail, as they understandably did not want to accept the possibility that their other children were taking money from them. Given that Mr and Mrs H were reluctant to accept this from their own children and repeatedly cancelled but then gave reissued cards and PINs to the carers, I don't think it's more likely than not that Mr and Mrs H would have accepted this from TSB either.*

*Overall, while I'm sorry to hear about what's happened and the impact it's had on Mrs H and her wider family, I don't find TSB have treated her unfairly.*

## **Responses to my provisional decision**

Mrs W did not accept my provisional decision. I've summarised her points as follows:

- She said the disputed payments were made without permission and her parents were not aware of the amounts being taken. She said video evidence of this was available.
- She maintained the payments should've been picked up by TSB as unusual. And that a letter from TSB to Mr and Mrs H would've alerted the perpetrators to the fact their theft had been discovered.
- The perpetrators gave no comment interviews. If they'd been authorised to make the transactions, surely they'd have told the police this.
- She and Mr H2 had made several attempts to help Mr and Mrs H. But Mr H in particular could not be persuaded and feared repercussions from the carers.

TSB did not respond by the deadline we set.

## **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.

Mrs W says she can provide a video taken in 2023 of Mr H confirming he did not give permission for his or Mrs H's cards to be used without permission. She says Mrs H was present but did not speak because she was quite unwell by then.

I understand why Mrs W thinks this is important evidence and I accept that's what Mr H said at that time. But I don't think it makes a difference to the overall outcome of the complaint, I'll explain why.

I accept that Mr and Mrs H did not give the carers explicit permission to make the cash withdrawals that are now the subject of this complaint. However, as I explained in my provisional decision, the cards and PINs were in the possession of the carers because Mr and Mrs H had given them to them. In those circumstances, this means the payments can be treated as authorised and Mr and Mrs H can be held liable for any transactions the carers made, even if they didn't know about them.

I explained in my provisional decision why I didn't think the transactions ought to have been flagged by TSB. As Mrs W hasn't provided anything new on this point, I don't see a reason to depart from my provisional findings on this issue. She says a letter from TSB to Mr and Mrs H about the disputed payments would likely have been discovered by the carers and alerted them that their activity had been discovered. It may well have done, but as my finding remains TSB didn't make a mistake by not intervening in the disputed payments, TSB weren't obliged to send any such letter.

Mrs W says, when questioned by police, the carers gave no comment interviews. I'm not going to speculate here why they did so and in any event, this makes no difference to whether TSB is obliged to refund the transactions under the PSRs or whether they should have been flagged by TSB as suspicious at the time they were made. So, this doesn't make a difference to the outcome of the complaint either.

I acknowledged in my provisional decision that Mrs W and Mr H2 appear to have tried on several occasions to help Mr and Mrs H. I don't dispute this. I am sorry to hear that their efforts were ultimately unsuccessful and particularly that Mr H feared repercussions from the carers. But as I've explained, in the circumstances, I haven't found TSB have made a mistake.

## **My final decision**

For the reasons I've explained, I don't 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 9 October 2025.

Eleanor Rippengale  
**Ombudsman**