

## **complaint**

Mr H complains that Lloyds Bank plc is holding him liable for transactions totalling around £750 that he says he didn't make or authorise. He says he didn't receive his card and PIN when he opened a new account.

## **background**

Mr H applied online for a current account with Lloyds with a £750 overdraft facility. He says he already had a main current account and that he opened this account because he wanted to make use of the bank's safe deposit facility. He says he decided to accept the overdraft facility, although he didn't intend to use it.

He says he didn't receive an online banking activation code so he visited his local branch. The member of staff re-ordered this and, when Mr H told her he hadn't received the card and PIN, this was also re-ordered.

But, in the meantime, several transactions had taken place on the account using Mr H's card and PIN. Mr H says he noticed these either when he logged on to online banking for the first time, or when he received his first statement.

The bank couldn't conclude that the transactions had been carried out by someone who had fraudulently obtained the card and PIN. It closed Mr H's account and passed the debt to its collections team and then to a debt collection agency. It recommended Mr H made a report to the police if he felt he'd been a victim of fraud.

Our investigator didn't recommend that the complaint should be upheld. She thought it likely that the card and PIN had been correctly delivered, that the transactions took place in the same area and at the same time as transactions on Mr H's main current account and that the spending pattern wasn't that of a typical fraudster. So she thought it most likely that the transactions had been authorised by Mr H.

Mr H didn't agree. He said, in summary, that:

- He contacted the bank to tell it he hadn't received the card and PIN; it should've told him at that stage that his account had already been used.
- Other items of mail went missing around the same time and he reported this to Royal Mail.
- He isn't in debt with any financial institutions. He has overdraft facilities, but doesn't need to use them.
- He's a victim of fraud and his credit rating has been ruined.
- Lloyds needs to prove where it sent the card and PIN.

## my findings

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

I'm satisfied that the genuine card and PIN were used for each of the transactions Mr H is disputing. So whoever made them must have been able to get hold of both the card and PIN.

Mr H says he didn't receive the card and PIN and that Lloyds should prove where they were sent. And he says he didn't use the card. So I've considered the possibility that the card and PIN weren't delivered to Mr H, and also the possibility that they were intercepted by a third party.

Lloyds' records, which I've seen, show that the card and PIN were sent separately to Mr H's correct home address. The PIN was sent on the day the account was opened, and the card a couple of days later. Both were sent by second class post, which I find reasonable – there wasn't a requirement to send the card and PIN by any form of guaranteed delivery.

Mr H's mail is delivered directly through a letterbox on his front door. So I'm satisfied it is secure. But he's told us he made a complaint to Royal Mail about his post going missing – he says he'd not received expected medical appointment letters. Although he gave us the reference number for his complaint, he told us he didn't hear anything else from Royal Mail. So it's not clear what the outcome of any investigation was. Mr H says his mail was often delivered to neighbours by mistake. But he's told us that if any mail was wrongly delivered, it was usually re-posted by the neighbours.

So while I do find there's a possibility that items of post may have been wrongly delivered, I find it unlikely that *both* the card and the PIN would have been wrongly delivered and fall into the hands of the same person - because they were sent on different days. So, overall, I think it's likely and I'm willing to accept that the card and PIN were correctly delivered.

And while I can't rule out the possibility that someone else that Mr H knows intercepted his post and used the card without his knowledge, I think that's less likely, particularly taking into account what he's told us about the other members of his household.

I've also taken into account the nature of the transactions and I don't find these look like the transactions of a typical fraudster. I say this because:

- There was no balance enquiry before the first cash machine withdrawal – I would have expected a fraudster to have checked how much was in the account so they could withdraw as much as possible in a short period of time.
- The last transaction on day one was at 14.24. Then there were no transactions until an attempted cash machine withdrawal at 12.45 on day two. As just noted, I would expect a fraudster to try to obtain as much of the money from the account as possible in as short a period as possible before the card is stopped.
- The transactions took place in the same area visited by Mr H – he told us he was in that area on that day and I can see from his main current account statement that he visited shops there.
- No further transactions were attempted once the card had been stopped.

Mr H says Lloyds should have told him about the transactions when he said he hadn't received the card and PIN. But there wouldn't have been any reason for the bank to check for account activity at that point. It simply cancelled the existing card and issued a new one. So I don't find it did anything wrong here.

It did apologise to Mr H for the poor customer service he received – he had difficulty getting through on the phone and at one point he was given the wrong information – and it paid him £117 compensation for that. I think this was fair and reasonable.

Because I've found that it's likely that Mr H did receive the card and PIN, it follows that I also think he probably carried out the disputed transactions, or authorised someone else to do so. And this means I'm not going to ask Lloyds to refund them, as it wouldn't be fair and reasonable to do so.

I appreciate my decision will be a disappointment to Mr H, but I hope I've clearly explained why I think this is a fair outcome.

### **my final decision**

For the reasons I've explained, 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 H to accept or reject my decision before 22 November 2019.

Elizabeth Dawes  
**ombudsman**