

complaint

Mr C complains that Lloyds Bank PLC is holding him responsible for a debt he says is not his. Mr C wants Lloyds to quash the debt and remove information about the default on the account from his credit record.

background

The details of this case are well-known to Mr C so I do not repeat them in detail here. Dates are central to this complaint, but in summary:

- Fraudulent cheques were paid into an account in Mr C's name at Lloyds in August 2008;
- Money was withdrawn from the account before the fraud was discovered – leaving the account overdrawn – using the debit card and correct PIN;
- A further (unsuccessful) attempt to withdraw money was made in a Lloyds branch – using a photocopy of Mr C's driving licence and an out-of-date passport;
- Lloyds tried to contact Mr C about the debt over many years, without success;
- In December 2012 – after checking his credit record – Mr C contacted Lloyds about the debt, saying the account was not his;
- In April 2013, Mr C visited a branch of Lloyds to confirm the account was his – but he had lost the debit card and a record of his PIN in August 2008 (Mr C later denied telling Lloyds this);
- In August 2013, Lloyds rejected Mr C's claim for fraudulent use of the card (and PIN);
- Mr C complained to Lloyds in December 2013 but the bank again rejected a claim for fraud in January 2014; and
- Mr C then said the account was not his and, as he was unhappy with Lloyds' response, referred the matter to this service.

Our adjudicator looked into Mr C's complaint but did not recommend it was upheld. He did not consider Mr C was not aware of the debt. Nor was the delay in Mr C contacting Lloyds properly explained.

Lloyds' records indicated Mr C had been using his account up to the point the fraudulent cheques were paid in and there was no obvious point of compromise where a fraudster would have been able to see Mr C's PIN and then later steal his card without him realising.

The adjudicator acknowledged that Mr C said he had stopped using the account because he went to university (so moved around – but Mr C later said that this was because he was travelling abroad). He also thought it very unlikely somebody would have access to the identification presented to the Lloyds branch after the fraudulent cheques had been paid in – as Mr C said none of the original documents had gone missing.

Mr C did not agree with this view so the matter has been referred to an ombudsman for a final decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have reached the same conclusion as the adjudicator. I am sorry to disappoint Mr C.

There is little I can add to what the adjudicator has already said. And, to be frank, I have some difficulty in believing Mr C's description of the circumstances of this complaint. His version of events has changed on more than one occasion – both to Lloyds and to this service. This undermines his credibility.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my conclusion on the balance of probabilities – that is, what I consider is most likely to have happened in light of the available evidence and wider surrounding circumstances.

Given the passage of time, Lloyds is not able to confirm where the transactions (using the proceeds from the fraudulent cheques) were made. This is not surprising. But I think it is more likely that Mr C carried out the transactions – or at the very least they were made with his knowledge or authority.

It seems strange that it was only after the transactions were made and Lloyds tried to contact Mr C that he (at various times) denied all knowledge of the account. And Lloyds' records indicate that he later said the account was his – but he had lost his card (with details that could reveal his PIN).

I do not find Mr C's various reasons why he did not receive any of Lloyds' calls or letters to be plausible. On the balance of probabilities, I consider he was aware of the debt.

Mr C may be disappointed with this but I do not believe I can fairly direct Lloyds to take any action to address his concerns. I consider he incurred, and was aware of, the debt. So the bank has correctly recorded the non-payment on Mr C's credit record and Lloyds may pursue him for the money owed.

my final decision

For the reasons I have given, my final decision is that I do not uphold Mr C's complaint.

Andrew Davies
ombudsman