

complaint

Mr B complains that Lloyds Bank PLC has refused to refund disputed transactions on his bank account. Mr B says he is the victim of fraud and wants Lloyds to refund the money.

background

Mr B opened an account with Lloyds in June 2012 and a debit card and PIN were issued to him. In September Mr B moved and around that time he reported his card as missing. He was sent a replacement card but no new PIN (or PIN reminder).

The last transaction that Mr B made with his (original) card was a withdrawal from a cash machine on 14 September 2012. On 17 September a withdrawal at a cash machine was made but Mr B says he did not make this withdrawal. On 18 September, Mr B reported his card as missing (possibly having been lost on the bus) and went to a branch of Lloyds, where he also paid a cheque in and made a counter withdrawal. The same day Mr B's card was used to make a further cash withdrawal and transactions at a betting shop.

A replacement card was issued but Mr B said he did not receive it. That replacement card (with the original PIN) was used to make a series of cash withdrawals and retail purchases between 22 and 26 September. Many of the later transactions were for relatively small amounts and appear to be for gambling, transport and food. The balance of his account was then almost zero. Lloyds closed Mr B's account.

Mr B complained to Lloyds but it said it would not change its decision to close his account. He was not happy with Lloyds' response so referred the matter to this service.

Our adjudicator did not recommend that Mr B's complaint was upheld. She considered it unlikely that Mr B's original card was taken, used and replaced. The adjudicator also noted the transactions (with both cards) had been carried out using Mr B's real card as the chip embedded in the card was read and his (unchanged) PIN was entered.

Mr B did not agree with this view so the matter has been referred to an ombudsman for a final decision. Mr B has stressed that he had not had the original card back after it had gone missing. He also considered that HSBC should not have allowed the disputed transactions to go through.

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, for broadly the same reasons.

I cannot say who carried out the transactions. The key issue I need to consider is whether Lloyds can hold Mr B responsible for them. I believe Lloyds can.

Mr B said he did not receive the replacement card. He lived in shared accommodation but is adamant that none of the people he was living with at the time would have taken his original or replacement card. I think he is wrong to have discounted this possibility.

He thinks he may have lost his (original) card – possibly on the bus – and an opportunistic thief guessed his PIN. Or it may have been stolen after he used the cash machine on

14 September and a thief used a camera to observe his PIN. Both of these possibilities are mentioned in Mr B's letter to Lloyds on 26 September 2012. I think both are highly unlikely.

In any event, either possibility would apply only to the transactions before the replacement card was issued, which Mr B says he did not receive. Mr B's PIN was not changed – and I think the chances of a second opportunistic thief getting his replacement card and also guessing that same PIN is remote to say the least.

I have reviewed Lloyds' records for the various transactions and am satisfied Mr B's real cards were used. The chips embedded in the cards were read and Mr B's PIN entered correctly. So, whoever carried out the transactions had both of Mr B's cards at different times and also knew his PIN.

Mr B is concerned that Lloyds did not take any action to stop the disputed transactions. Lloyds has confirmed the restrictions, in terms of value and number of transactions, for use of Mr B's account. The disputed transactions did not breach those restrictions so there was no reason for Lloyds not to process them.

Mr B also thinks Lloyds has failed to investigate properly who carried out the withdrawals. It is not normally a bank's role to pursue such matters. If Mr B believes somebody else carried out the transactions, this is a matter he should take forward with the police.

I know that Mr B will be disappointed with this but I am satisfied Lloyds can hold him responsible for the transactions and it does not have to refund the money.

my final decision

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

Andrew Davies
ombudsman