

complaint

Miss D complains that Lloyds Bank Plc have closed her account and registered her name with CIFAS.

Credit Industry Fraud Avoidance System (CIFAS) is the UK's fraud prevention service.

Miss D has been helped with her complaint by a representative. But for ease of reading, I'll only refer to Miss D herself.

background

The detailed background to this complaint is well known to both parties, so I'll only provide a brief summary here. Miss D had a Under 19's Account with a debit card. In November 2018 two payments were made to the account totalling around £1,000. Within minutes of each payment, cash point (ATM) withdrawals – totalling similar amounts – were made using Miss D's card and PIN.

The payments to the account were later found to have been fraudulent. When they discovered this Lloyds closed Miss D's account and registered her name with CIFAS.

Miss D says she knew nothing about the payments to her account and that she wasn't responsible for the withdrawals. She says she lost her card around the time of the first payment and had written down her PIN, which was attached to the card.

Lloyds say they acted fairly in closing the account and taking the further action they did. Miss D referred the matter to our service. She wants Lloyds to remove the CIFAS marker. One of our investigators didn't think the complaint should be upheld. He concluded Lloyds had acted fairly in the circumstances and didn't recommend that they needed to do more. Miss D doesn't accept this and has asked for an ombudsman to review her complaint

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've come to the same conclusion as our investigator and for essentially the same reasons. Let me explain why.

I'm satisfied the transfers into Miss D's account were fraudulent and weren't authorised by the respective account holders. Their own banks will have investigated those payments before reaching that conclusion. Miss D may not have been directly involved in that, but she says she knew nothing about the withdrawals either. I think that is unlikely and I'll explain why.

The second fraudulent payment arrived in Miss D's account two days after the first. Lloyds have shown that in that time period Miss D logged on to her online banking within the app on her phone over 30 times. The evidence shows that she'd logged on using her fingerprint, so I'm satisfied it was Miss D that was logging on and viewing that information.

Both the incoming payments and the withdrawals from the account would have been visible and I think it's more likely than not that Miss D saw these during her numerous checks of her online banking. But Miss D didn't contact Lloyds to report this – she only contacted Lloyds

three days after the second payment and this was to report that her debit card was lost or stolen. Based on this I think she had at least some awareness of what was going on.

I think most people would immediately report transactions they didn't recognise or weren't expecting as soon as they became aware of them. I also think that when seeing these transactions Miss D would have checked if she still had her debit card and would have reported its loss immediately, rather than waiting a few extra days before doing so.

I'm not persuaded that Miss D has told Lloyds all she knows about the events surrounding these transactions. In the circumstances, I think there would have been good grounds for Lloyds to report matters to the police to investigate, and that they were therefore justified in placing a CIFAS marker against Miss D's name.

The terms and conditions of Miss D's account also allow Lloyds to take a decision to end their business relationship with her. I can see that they've complied with the relevant notice period when doing so. And in the circumstances, I don't think they've treated Miss D unfairly.

I've also considered Miss D's account that she didn't make or authorise the cash withdrawals and two further transactions made at a petrol filling station. I'm satisfied by the technical evidence from Lloyds that all these transactions were made using Miss D's genuine card and PIN. In itself that isn't, on its own, enough to conclude that she authorised the transactions. But taking all the circumstances of this complaint into consideration, I think it's more likely than not that Miss D either made or otherwise authorised these transactions.

Miss D has provided us with an account which would explain how her PIN number was compromised. But I don't find Miss D's testimony to be reliable evidence. The speed of the withdrawals after the payments were made (within minutes), coupled with the online banking activity and the delay in reporting the loss of her card to Lloyds all lead me to conclude that Miss D made or otherwise authorised the cash withdrawals and purchases. And as such, I don't think it's unreasonable for Lloyds to hold her liable for them.

my final decision

For the reasons outlined above, my final decision is that I don't require Lloyds Bank Plc to do anything further to resolve Miss D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 11 November 2019.

Richard Annandale
ombudsman