

complaint

Miss B complains because Lloyds Bank PLC says it won't refund payments which were made from her Lloyds and Halifax accounts without her permission.

background

In August and September 2014 a large number of payments were made to three gambling websites from Miss B's two current accounts using her debit cards. Miss B says she was responsible for some of the payments but a lot were made by a fraudster who got her details by hacking her/her father's computer.

Lloyds won't refund the disputed payments because it thinks Miss B either made them herself or allowed someone to make them. But the bank said it took too long to investigate her complaint and paid £200 compensation into her account.

Our adjudicator didn't think it fair to ask Lloyds to refund the payments. He agreed with the bank that it was more likely Miss B had either authorised the payments herself or given someone else permission to do so. Miss B disagreed.

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, like the adjudicator, I don't think I can fairly uphold this complaint. I say this because:

- Miss B accepts she regularly uses gambling websites and helps her dad do so too, often using her debt card to add money to his account. The pattern of disputed payments made to the gambling websites quite closely resembles other patterns of payments that Miss B says she did make. And I'm surprised Miss B didn't notice the disputed payments sooner, given she says she moves money between her accounts a lot and claims to have previously been the victim of fraud by hacking.
- The group that owns a number of the gambling websites Miss B uses says that, over time, she has had many different accounts. And that if someone wanted to use another person's account they would need to know a username and password to log on. The CV2 number from the debit card would also have to be entered each time money was being credit to the gambling account. Miss B has given us an engineer's report which says there were a number of viruses on her father's computer around the time the disputed payments were made from her Halifax account. But the engineer didn't say specifically that those viruses being present on a computer would mean someone could get access to Miss B's existing online gambling accounts and find out her debit card CV2 number.
- Since first complaining to the bank about this set of disputed payments, Miss B has changed her mind about which payments she did and didn't make. She suggests this might have been because she was confused because she was on medication after an operation. But I'm not persuaded by what she says. She'd made a claim for fraud previously so I think she probably knew more than most what this would involve. And the emails she sent the bank about the fraud are not worded in a way that suggests she was

confused or having difficulty expressing herself. Overall, I have difficulty understanding why, once she realised there might be a problem, Miss B didn't immediately look thoroughly at all the bank and gambling accounts she used for gambling in order to provide a reliable, comprehensive list of disputed transactions.

- Miss B hasn't told any of the gaming websites about her accounts being used fraudulently. And when she first spotted there might be a problem she didn't, for example, call the bank to get her account blocked to stop any further fraud. Instead, she sent an email – on a Saturday – to someone who she'd spoken with at the bank about the earlier fraud. This email was just about some money being moved around her accounts. And despite her obvious concern in this email she didn't chase up a response until the following Monday, which is when she first reported fraudulent payments being made to one of the gambling websites. That doesn't seem to me like the action of someone who was really concerned about protecting their account. This is all the more surprising to me given Miss B's previous experience with fraud.
- Any winnings made on the gambling websites could either be used to gamble again or be paid out into Miss B's own bank accounts. Miss B says that wouldn't matter because the gain a fraudster gets is to gamble using someone else's money. I think what Miss B says is possible but I don't think that's what happened in this particular case.
- Miss B says her debit cards should have been cancelled sooner and this would have prevented some of the fraud. But the disputed payments on her Halifax account had already taken place by the time she told the bank something was wrong. And it was nine days later that she checked her Lloyds account and reported fraud on that account, by which time again all the disputed payments had been made. So I don't think the bank should have cancelled her debit cards or started looking into the fraud any sooner than it did.

I can see Lloyds refunded similar payments some months earlier when Miss B said her computer had similarly been hacked. But I don't think that means Lloyds should automatically refund these later ones too. And overall, given what I've said above, I don't think I can fairly tell the bank to refund any of the disputed payments.

I think Lloyds could have done a better job of investigating Miss B's concerns. But it's already paid her £200 compensation and I think that's fair in the circumstances.

my final decision

Under the rules of the Financial Ombudsman Service, I am required to ask Miss B to accept or reject my decision before 8 July 2015.

Ruth Lewis
ombudsman