

## **The complaint**

Mrs P complained because MBNA Limited refused to refund her for transactions she said she didn't make.

## **What happened**

In December 2022, Mrs P opened a credit card with MBNA. A new physical card was ordered, and the details appeared within her banking app straightaway.

On 17 January 2023, Mrs P raised a fraud claim, saying she hadn't authorised multiple transactions on her new account. She said her usual postman hadn't been working and she believed her post had been intercepted and her new card and PIN stolen. She said she'd never received these. MBNA credited the disputed amount to Mrs P's account and started to investigate.

Mrs P had been able to access her card through the mobile app, and she said that some of the transactions on the account had been genuine. But MBNA mistakenly raised disputes with the merchant on these too. They included two flight transactions which Mrs P had made on 18 and 19 December, and when MBNA raised a fraud claim with the airline, it cancelled Mrs P's flights. This meant she had to re-book at higher prices. MBNA also declined Mrs P's fraud claim about the other transactions, and it re-debited the transactions.

Mrs P complained.

MBNA upheld Mrs P's complaint about the flight transactions which were genuine and which it shouldn't have disputed with the merchants. It sent Mrs P a cheque for £250 compensation for the trouble and upset, and it agreed to pay her the difference between the original prices of the flights she'd booked, and the prices she had had to pay when she'd rebooked them.

But MBNA didn't uphold Mrs P's claim for a refund of the other transactions which Mrs P had disputed. In its final response letter, it said that it had made an error when it had credited Mrs P's account with a refund, so it had then re-debited these. But it said that its fraud processes were in place to safeguard customers and the bank, and when considering a claim like Mrs P's, it made a decision based on the evidence it held. It told Mrs P that any further contact about her claim would have to be done by the police liaising directly with MBNA's police liaison team.

Mrs P wasn't satisfied and contacted this service. She said she'd lost £3,668.62, plus the interest and cash withdrawal fees she'd been charged. Mrs P said she wanted MBNA to refund the disputed transactions, plus all interest and charges.

Our investigator didn't uphold Mrs P's complaint. She said that MBNA had redressed its errors about the flight transactions and she thought £250 compensation for that was fair. But she said that technical evidence showed that Mrs P had logged into her mobile banking over 20 times during the time when the disputed transactions were taking place. Mrs P had said she hadn't noticed them, and only found out when she'd had a text on 17 January saying she'd reached her credit limit. But MBNA had also sent a text on 22 December saying Mrs P

had used more than 90% of her credit limit – and Mrs P hadn't reported it then. The investigator thought it was likely that Mrs P had authorised the disputed transactions herself.

Mrs P didn't agree. She asked why MBNA hadn't sent her new card by registered post, and said that when her daughter had a new card, she'd had to collect it in person. She also said the mail service had massive delays, so why was she expected to tell MBNA it hadn't arrived, when it was known that the post was incredibly slow. She also said she hadn't looked at her statement when she'd logged in, and asked if MBNA could prove she had.

Mrs P asked for an ombudsman's decision.

### **What I've decided – and why**

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

#### *Compensation for the flight tickets and error in crediting Mrs P's account*

MBNA's final response accepted that it shouldn't have raised disputes on the genuine flight ticket transactions. It refunded Mrs P with the difference between those genuine transactions, and the higher price of the replacement tickets she bought. MBNA also said it made an error in crediting Mrs P's account with the disputed transactions – though many organisations will provide a temporary credit when a customer raises a dispute about a transaction. MBNA paid Mrs P £250 compensation, plus the £346.74 for the difference in flight prices. I've considered this amount, and I find that this was fair and reasonable for these two issues.

#### *Disputed transactions*

There are regulations which govern disputed transactions. The relevant regulations here are the Payment Services Regulations 2017. In general terms, the bank is liable if the customer didn't authorise the payments, and the customer is liable if they did authorise them. So I've considered whether I think it's more likely than not that it was Mrs P who authorised the transactions, or a fraudster.

I've looked at the computer records of Mrs P's account. These show relevant confidential technical information about exactly how the disputed transactions were carried out. Having seen this, I'm persuaded that the transactions were most likely to have been carried out by Mrs P.

In addition to the technical information, I've considered the circumstances. Mrs P logged on to make the genuine transactions, where she could access the necessary card number and its security code. She logged on very many times during the period of the disputed transactions between 18 December and 17 January. She'd have seen the account overview page when she did so. I recognise that Mrs P said she wasn't dealing with her finances because she had four credit cards, her daughter was unwell, and it was Christmas. But despite these reasons, it's not disputed that Mrs P was logging on. So I can't see why she wouldn't have asked MBNA about anything she didn't recognise – especially as some of the amounts weren't small.

Mrs P also says that she'd received text messages for all the genuine payments, but no messages about the other transactions. Our investigator asked Mrs P why she didn't act on the text message on 22 December which said she'd used more than 90% of her credit limit – especially as she logged in within half an hour of this text being sent to her. I'm not persuaded by Mrs P's reply that she'd had two texts that day, and it simply didn't register.

I've also looked at the pattern of transactions. Fraudsters normally take the maximum amount quickly, in order to maximise their gain before an account holder can spot what's going on and block further transactions. But here, there are no disputed transactions between 23 December and 14 January when the disputed transactions re-started. This just isn't a likely pattern for a fraudster.

Finally, Mrs P asked why the card wasn't sent by registered post, so it could be confirmed whether she'd received it or not. Banks are entitled to take their own decisions about how they send out cards and other correspondence. I recognise that Mrs P says she had four credit cards to deal with, and she says there were postal problems at the time, but I'd have expected her to flag the card's non-arrival with MBNA at least when the disputed transactions started from 18 December.

Taking all these factors into account, I consider it's more likely than not that Mrs P carried out the disputed transactions herself. So MBNA doesn't have to refund her for the transactions or any interest and charges associated with them.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 10 November 2023.

Belinda Knight  
**Ombudsman**