

## The complaint

Ms M complains that Lloyds Bank PLC won't refund a cash withdrawal of £500 that she didn't make.

## What happened

Ms M says she didn't make this withdrawal on 4 March 2023. She had tried to take out money herself, but this had been declined. She explains that she reported this to police.

Lloyds said it wouldn't be refunding this money. Ms M had her card in her possession and there was no explanation of how someone would have discovered the PIN. She had used the card a short time before and after the withdrawal.

Our investigator didn't recommend that the complaint be upheld. He said that the withdrawal was made with the chip on the card and the PIN. No other attempted payments were made. A fraudster would have quickly needed to return the card to Ms M after using it which would be unusual, and she'd have likely noticed. And there was no explanation of how her PIN was discovered.

Ms M is represented in this complaint. Her representative said that Ms M didn't withdraw this money, and this was an uncharacteristic amount for her. Attempts had been made to obtain the CCTV for the cashpoint involved but these were not successful, and the representative said how upsetting this was given the time that had passed and that no one was helping them.

## 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.

I won't be able to say *exactly* what happened and I'm thinking about what is *most likely*. I need to take into account the Payment Services Regulations 2017 in considering this complaint. These state that a payment can only be authorised if it was consented to. So, it's not enough for it to be authenticated, say with a card and PIN. And if it wasn't authorised Ms M wouldn't generally be responsible for it.

So, I will be thinking about the following areas in looking at this complaint:

- What is the most likely explanation of what happened to the card and PIN used for this payment?
- Did Ms M authorise the payment on the account?

I'm satisfied that the withdrawal was authenticated when the chip on the card was read, and the correct PIN entered. The issue is whether Ms M consented to this.

I note from the information provided by Lloyds that the card was used for a genuine

contactless payment at 14:49 that day. The disputed withdrawal was made at 15:05. And Ms M accepts she attempted to withdraw smaller amounts of £20 or £30 in cash at 15:35, 16:01 and 16:03. All of those were declined as the daily withdrawal limit of £500 had been reached. She also used her card for a contactless payment at 15:55. From what I understand from the information all these payments were in the same local area.

Ms M denies making the withdrawal of £500 and so being at that cashpoint and which is why an attempt has been made to obtain CCTV. So, this seems to rule out for example her possibly being distracted using it and someone taking money from her account without her realising.

There were no other disputed attempts to use the card. I agree with our investigator that this would be unusual if an unknown third party had the card and PIN and there were still the available funds I can see at the time in her account. And it would be unlikely too that the card be returned to Ms M as this risked detection. There is no explanation of how someone could have seen her PIN. There is no record of her using the PIN that day before the disputed payment. And she says she hasn't told this PIN to anyone. She's not as a result identified anyone known to her that could have carried out this withdrawal without her knowing.

I've considered all the evidence and thought about the possibilities here. Having done so I'm afraid I think that the most likely explanation is that Ms M consented to this withdrawal. And so, I think it reasonable for Lloyds to hold her responsible for it. I can appreciate how disappointed she will be by my conclusion here given what is at stake for her.

### **My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 18 October 2023.

Michael Crewe  
**Ombudsman**