

The complaint

Mrs S complains Lloyds Bank PLC (“Lloyds”) refuses to refund her for transactions on her account she says she didn’t authorise.

What happened

Mrs S says several transactions, totalling over £40,000, were made on her account which she didn’t authorise. Mrs S says she doesn’t have an eBay account, where most of the transactions were made, and she wasn’t able to travel so she wouldn’t have purchased the Post Office travellers’ cheques which were purchased. Mrs S says Lloyds should have stopped these payments as they were out of character for her normal spending, and it should now refund her the money.

Lloyds says it did everything it could to make sure the transactions were genuine, and it cannot uphold this complaint because there is no reasonable way someone else could’ve made these transactions without her authorisation. Lloyds says some of the initial transactions were declined but it has provided the call recordings of the calls it received from Mrs S asking it to allow the transactions to go through. Furthermore, the transactions were completed using Mrs S’s full debit card details including the CVV and were approved by ‘One-Time Passwords’ (OTPs) sent to Mrs S’s registered number.

Our investigator considered this complaint alongside all the evidence supplied but also felt that the evidence suggested the transactions were completed by Mrs S or someone with her authority. Mrs S didn’t agree so the complaint has been passed to me for a 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.

When considering what’s fair and reasonable, I’m required to take into account relevant law and regulations; the regulator’s rules, guidance and standards; the codes of practice; and, where relevant, what I consider good industry practice at the relevant time.

Where there’s a dispute about what happened, and the evidence is incomplete or contradictory, I must make my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence.

Generally speaking, Lloyds is required to refund any unauthorised payments made from Mrs S’s account. Those rules are set out in the Payment Service Regulations 2017. Mrs S has said she didn’t carry out the transactions in dispute. I then have to give my view on whether I think it’s more likely than not Mrs S did authorise the transactions or not.

From the outset I would like to say that I am sorry to hear Mrs S has been experiencing difficulties with her health. I can understand this must have been a distressing time for her.

Mrs S maintains that she didn't carry out these transactions and she has given several reasons why she would not have purchased the items bought using her debit card. But these transactions were completed online using Mrs S's debit card details, including her CCV code on the back of the card. We asked Mrs S if anyone else has had access to her card but she was adamant that her card has been safe - either in her physical possession or hidden close by. Mrs S says she hasn't given her card details to anyone else and hasn't given anyone else permission to use her debit card. So, it seems likely then that Mrs S used her card to make these transactions herself.

Lloyds have provided evidence that it sent OTPs to Mrs S's registered phone to authorise these transactions. There is only one mobile phone number registered on Mrs S's account. Mrs S hasn't provided any evidence that her phone was stolen or being used by a third party. Mrs S has suggested that her phone SIM could have been cloned, but we've not received any evidence of how or when this could've happened. Usually, the actual SIM would be needed for it to be cloned and the original SIM would stop receiving messages and calls when the cloned SIM was being used. As I've not seen any other likely scenario, I think Mrs S approved the transactions in dispute via the OTP.

I've also listened to the calls supplied in evidence by Lloyds which it says it received from Mrs S. And from what I've heard, I think the calls were made by Mrs S and I'll explain why.

Mrs S maintains she did not authorise these payments and she thinks she has been victim to a deep fake scam. I accept it is possible that someone or some technology could've been used to impersonate Mrs S on the phone and answer several different security questions about her and her accounts - but I think it's unlikely. It might even be possible that someone was able to copy Mrs S's card details and clone her SIM, but again based on the evidence I have it seems unlikely. While the account usage is unusual and for Mrs S and some of the evidence is contradictory, overall the evidence suggests that on the balance of probabilities it's more than likely Mrs S did authorise these transactions.

I have considered the evidence supplied that Mrs S was in hospital and unwell during the time some of these transactions were carried out. I have also considered what Mrs S has said about being a victim of a deep fake scam. I am not saying that Mrs S is a liar, or that a scam of such a complex nature is not possible. I am simply saying that based on the evidence I've seen it seems more likely that Mrs S did make these transactions herself, or someone made them on her behalf. So it doesn't feel fair to ask Lloyds to refund this money from its own funds.

While I know this outcome will come as a disappointment to Mrs S, I have decided not to uphold this complaint. So, I won't be asking Lloyds to refund Mrs S for the transactions in dispute.

My final decision

For all the reasons outlined above, I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 4 June 2024.

Sienna Mahboobani
Ombudsman