

## The complaint

Mr E complains Barclays Bank UK PLC (trading as Barclaycard) returned a third party's payment made to Mr E's credit card account in error, without his authority.

## What happened

In October 2019, another bank acting on behalf of a third party, who I'll refer to as P, made two separate payments of £5,000 into Mr E's account on the same day followed by a further payment of over £6,500 the next day. These payments put Mr E's Barclaycard account in credit by over £3,500. Mr E says he confirmed with Barclaycard that two payments of £5,000 had been paid into his account, following which he *'undertook purchases and services to the amount of £10,000'*.

P's bank contacted Barclaycard via the faster payments service soon after and said that a duplicate payment of £5,000 had been made in error. Barclaycard wrote to Mr E on 4 November 2019 to tell him P's bank had transferred £5,000 by mistake. Barclaycard said if it didn't hear from Mr E by 25 November 2019, it would assume it had his consent to return the funds.

Mr E phoned Barclaycard on 19 November 2019. He said he was calling about the £5,000 *'extra'* paid into his account and that he didn't give authority for it to be returned to P's account. Mr E said *'It is correct, it's fine, let it stay on my card'*. Barclaycard checked with Mr E that he wasn't willing to allow the funds to be returned and asked him for a reason. Mr E didn't give a reason and again said *'let it stay on my card'*. Barclaycard said that the funds had been deposited by mistake to which Mr E responded, *'It's fine, I don't authorise'*. Barclaycard said it would update its system to that effect. Despite Mr E's response, Barclaycard did return the payment.

Mr E complained to Barclaycard. Barclaycard responded and it upheld his complaint on the basis it had taken £5,000 out of his account when Mr E had specifically said he didn't want Barclaycard to do that. Barclaycard said it tried to retrieve the payment via the faster payments service, but the service said it couldn't return the payment because it was a duplicate. Barclaycard gave Mr E £150 compensation for the stress caused by its error and told Mr E he could contact our service if he wasn't happy.

Mr E complained to us. He said Barclaycard shouldn't have taken money from his account without his consent, particularly as he'd made purchases of £10,000. He doesn't think it's fair he's now being charged interest because he can't pay his remaining balance off in full. When it provided its comments to us, Barclaycard said it was satisfied it had made the right decision to return the funds because Mr E's account was returned to the position it should have been in. But it accepted its actions caused Mr E frustration, as he hadn't consented to Barclaycard returning the payment. Barclaycard also confirmed it suspended interest for January 2020 as a goodwill gesture.

Our investigator looked into the complaint and noted Mr E had received two payments of £5,000 and another payment of over £6,500 from P's bank a day later. The investigator thought Barclaycard made a mistake in letting Mr E think if he didn't consent, he could keep

the additional £5,000 paid in error. The investigator said that if Barclaycard hadn't returned the extra £5,000, it would be committing fraud on Mr E's behalf. The investigator felt Barclaycard's compensation payment of £150 was fair in the circumstances, as was its decision to freeze interest on Mr E's account for January 2020.

Mr E didn't agree with the investigator's view, so the matter has been passed to me to decide. Mr E said that despite Barclaycard agreeing not to return the duplicate payment if he made contact by a certain date, it did so anyway. Mr E said he's now out of pocket on the basis of the assurance he'd been given, so he expected his rights to be protected by Barclaycard.

### **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.

It's clear Mr E thinks Barclaycard was wrong to return the additional £5,000 paid into his account when he didn't agree to that. And he holds Barclaycard responsible for the financial loss he says he's now suffering.

So, I've thought about whether Barclaycard handled this situation appropriately, particularly given the lack of consent from Mr E to return the funds paid in error.

Mr E indicated he was expecting two payments of £5,000 into his account. I haven't seen any evidence to show what was agreed between Mr E and P, but I have no reason to doubt Mr E's account of what he expected to happen.

But despite what he expected, I've seen that over two days P's bank made three payments totalling over £16,500 into Mr E's account. Of those, there were two separate payments of £5,000 made on the same day. When it realised a duplicate payment of £5,000 had been made, P's bank asked Barclaycard to return one of the payments.

Barclaycard told Mr E that if it didn't hear from him by 25 November, it would assume he'd consented to one of the payments being returned. And it seems Mr E thinks that because he contacted Barclaycard before the deadline and said he didn't agree, he'd be able to keep the money. And so, because Barclaycard did return the payment despite the lack of consent from Mr E, he says he's lost out financially by £5,000.

And I think this is where things went wrong in terms of Barclaycard's handling of this situation. I'm satisfied it was fair for Barclaycard to contact Mr E when it became aware of the mistake on his account and to ask him for his consent, in case Mr E could demonstrate that he was entitled to all of the funds paid in.

There's no evidence to suggest Mr E was entitled to all of the funds. He indicated he was expecting two payments of £5,000 to be deposited, so I'm satisfied from what I've seen that he received at least that amount - In fact he received more - even once the mistake had been corrected. But that said, I do think Barclaycard could have taken more time to address the points Mr E made when he phoned. I'll explain why.

When discussing the error, I've heard from the call recording that Mr E said he was ringing about the 'extra' payment, and that *'it is correct- let it stay in my account'*. But later in the call, he seemed to suggest it was more a question of him not agreeing to the funds being returned rather than him believing he was entitled to the extra £5,000. And when asked, he didn't give a reason why he didn't want the funds returned other than he didn't consent to Barclaycard doing that. At this point, I think Barclaycard should have asked Mr E why he

thought the amount deposited was correct and how much he was expecting to receive. And, a quick look at the account statement would have shown Mr E had received more than he was expecting, even if some of it were returned. But, if Mr E had insisted he was entitled to everything paid in, Barclaycard could have agreed to look into the matter further. I've seen no evidence to suggest it did any of this.

And whilst I think it was preferable for Barclaycard to have Mr E's consent, in the absence of evidence that Mr E was entitled to the funds in question, I don't think it was unreasonable for Barclaycard to return them. However, I think Barclaycard should also have told Mr E that regardless of whether he consented, it was likely to return the duplicate payment anyway because it shouldn't have been made. But Barclaycard didn't do that either. So, that gave Mr E the impression that if he didn't consent, he was entitled to keep the whole amount paid in. And I think Barclaycard mismanaged Mr E's expectations by not clearly explaining what was likely to happen.

Mr E says that he lost out financially when Barclaycard returned the duplicate payment and that his rights should be protected because of the mistake. From what he's said, it seems that because Barclaycard returned the payment despite him not consenting, Mr E expects Barclaycard to put him back in the position he thinks he should have been in as he *'undertook purchases and services to the amount of £10,000'*.

I've thought about what Mr E said, but I don't agree. I can see from Mr E's early October 2019 statement that the balance outstanding is about £11,500. And it's possible that the previous month's expenditure was linked to the payments Mr E expected to get from P later in October 2019. When P's bank made three payments into Mr E's account, it put the account in credit for a short time. I haven't seen any evidence from the following month's statement to show Mr E had already spent the extra £5,000 he thought he had. And whilst it may be that Mr E was intending to spend the extra amount - even if he hadn't done so already - I don't think the two things are the same.

In any event, Mr E expected to get two payments from P. And that's what he had once the duplicate payment was returned. Although as I said earlier, Mr E actually received more than £10,000 between the two payments. So, I think Mr E was at least returned to the position he would have been in had it not been for the error. And whilst I appreciate Mr E might have expected to keep everything paid in because he hadn't consented to money being returned, I don't agree that means he's suffered a financial loss when it was.

As I've said, I've not seen anything to suggest Mr E was entitled to all three payments. So, whilst I accept Barclaycard should have managed his expectations better, I don't think it would be fair for Mr E to benefit from the mistake P's bank made. Nor do I think Barclaycard is responsible for any interest and charges Mr E incurred because he might have spent more on his account than he otherwise would have done.

I'm satisfied Barclaycard's compensation payment of £150 recognises the disappointment Mr E suffered when his expectations weren't properly managed, and I don't think Barclaycard needs to do anything more.

### **My final decision**

I am aware that Barclays Bank UK PLC have paid Mr E £150. I conclude that is fair and reasonable in all the circumstances. My final decision is that Barclays Bank UK PLC don't need to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 2 July 2020.

Amanda Scott  
**Ombudsman**