

The complaint

Mr M has complained Barclays Bank UK PLC won't refund him for multiple transactions he says he didn't make between 15 July 2020 and 23 July 2020.

What happened

On 24 July 2020, Mr M told Barclays that he had noticed multiple transactions totalling £3,630.00 debiting his account to a gambling website (the merchant) which he disputed.

Barclays says initially Mr M explained he had lost his wallet, which contained his debit card and his ID. Barclays blocked his debit card and on 27 July 2020, Barclays temporarily credited Mr M's account whilst it investigated the matter. This credit was later removed on 23 September 2020, as Barclays concluded Mr M was liable for the disputed transactions because it believed he authorised them.

Barclays paid Mr M £50.00 for the delays he experienced in logging his complaint.

Our investigator did not uphold the complaint. She said the evidence suggested Mr M authorised the transactions. She considered £50 offered by Barclays was a fair amount of compensation for the inconvenience caused.

Mr M 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.

Having done so, I've reached the same conclusion as our investigator for broadly the same reasons.

I'm not going to cover all the points raised in detail. The view of 7 May 2021 covered the detailed timeline of the transactions and the details of Mr M's testimony. Whilst I've concentrated on what I think is the crux of the complaint, I've read and listened to everything he and Barclays have sent us. If I don't comment on any specific point, it's not because I haven't considered it but because I don't think I need to comment on it in order to reach what I think is the right outcome

It's important to highlight that with cases like this I can't know for certain what has happened. So, I need to weigh up the evidence available and make my decision on the balance of probabilities – in other words what I think is more likely than not to have happened in the circumstances.

When considering what is fair and reasonable, I'm also required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The Payment Services Regulations (PSRs) are the relevant rules here. As a starting point, Barclays can hold Mr M liable for the disputed transactions if the evidence suggests that it's more likely than not that he made or authorised them himself.

So, when I look at whether a bank has acted fairly in declining someone's fraud complaint, one of the things I consider is whether the customer made the transactions themselves or allowed them to be made. If they did, then I generally wouldn't ask the bank to refund them. To help me decide what happened, I've looked at the evidence of the transactions, as well as what Barclays and Mr M have told us. Having carefully considered everything that both sides have said and provided, I don't think it's unreasonable for Barclays to conclude that Mr M authorised the transactions he disputes. I've explained why below:

A payment needs to be correctly authenticated and made with the customer's consent in order to be regarded as authorised.

The evidence provided by the merchant indicates that Mr M's card was used with the correct security details entered. The merchant explained a further 3D authentication process was carried out whereby the cardholder would be directed to an authentication page on their bank's website, and they would enter a password associated with the card or a code was sent to their phone. So, I'm satisfied the payment was authenticated using the correct card details.

But a payment out of someone's account can only be treated as authorised if the payer has consented to it. When a customer disputes a transaction, I consider three possibilities: the transaction was completed by an unknown third party, the transaction was completed by a known third party or the transaction was completed by the customer.

The evidence provided indicates an account was set up in Mr M's name with the merchant using Mr M's name address and other personal details including his bank card details. Mr M disputes the contact telephone number is his. I can see it's different from the mobile number Barclays had on its records; although that doesn't automatically mean the number doesn't belong to him, but it is a possibility I have considered.

Mr M also explained to us that his email login details had been compromised. So I accept it's possible someone else could have used Mr M's email account to verify the account with the merchant or intercepted the code via the different mobile number to complete the second stage of authentication.

However, whilst this is a possibility, on balance I don't feel the overall evidence supports this scenario. I say this for the following reasons:

- According to Barclays initial claim log, Mr M reported he was in possession of the card at the time the fraud was committed.
- Mr M told us he lost his wallet with debit card before the disputed transactions took place, but he did not report the matter to the bank for over a week. This seems odd to me; either not to notice his wallet and card was missing or to leave reporting it is missing for such a long time.
- Mr M made a claim for the deposits to the merchant but did not mention he had also received some credits from the merchant.
- There is no benefit to anyone other than the genuine cardholder, to access the gambling account as any winnings would have been returned to the same card. The winnings from the account in Mr M's name, credited Mr M's Barclays account.

- Mr M's mobile banking was accessed during the period in question. Mr M confirmed that he uses mobile banking. He told us the passcode to access his mobile banking wasn't shared with anyone and it isn't written down. Mr M confirmed his phone has fingerprint touch ID and a passcode to access it. He also told us that no one had access to his phone in order to access his mobile banking app. Mr M hasn't said he lost his phone or online mobile banking details. I'm therefore satisfied that it was Mr M that accessed his mobile banking during the period in question. And he didn't dispute the transactions during this time, only after the last disputed transaction was made.
- Mr M logged on to his account via mobile banking on five separate occasions during the period in question. There were numerous transactions for the disputed activity. Mr M ought reasonably to have noticed the activity on his account. Having noticed it he ought reasonably to have raised the issue straightaway.
- Mr M made a number of other transactions during the period in question via his mobile banking. Initially Mr M said he did not recognise these transactions but later confirmed they were him. On 17 July 2020, Mr M transferred £8,153.17 from his account.
- The disputed activity looks like it was funded by transactions from Mr M's business account, and from another business account Mr M was associated with.
- The disputed transactions stopped after the card was cancelled which suggested the person making the transactions knew the card had been cancelled.
- The pattern of the payments is inconsistent with that of an unknown fraudster with full access to Mr M's online banking. There are also unusually large gaps, up to two days between disputed payments. More commonly a fraudster will try to take as much as they can, as quickly as possible, before they are discovered as delay risks their access being blocked.

Barclays told us there were no balance enquiries but in fact there was one on the day before the first disputed transaction and there were cash withdrawals two of which were declined because the daily limit had been reached. But Mr M hasn't disputed these transactions, and they are not unusual compared to historic activity of the account - both in terms of the amounts withdrawn, or cash machine locations used.

I appreciate there are some anomalies here such as Mr M appears to have had no previous history of gambling – so the activity was out of character. And I accept some of the details (mobile number) provided to the merchant don't appear to match Mr M's. The IP addresses used for the transactions has also been raised - but it's important to bear in mind that IP location data isn't always reliable and so it has to be approached with caution.

Overall, these anomalies are not enough to persuade me to reach a different conclusion. And whilst I acknowledge that there could be an explanation behind each of the points I've discussed above, when they are all taken into consideration together and holistically, I don't believe the more likely explanation is that Mr M's been the unwitting victim of a scam.

Barclays is not holding Mr M liable for the claim because he didn't sign and return the letter he says didn't receive. The process for a disputed transaction is to temporarily refund the sums whilst Barclays investigates the matter. Once it had investigated the matter it removed

the credit as it deemed Mr M liable for the transactions. Barclays has admitted it didn't log the complaint as early as it should and has paid Mr M £50 for the inconvenience. I don't think this is unreasonable in the circumstances and won't be recommending Barclays do anything more in relation to this point.

Overall, I've concluded it's more likely than not these were authorised payments. It would not be fair or reasonable for me to ask Barclays to do anything further as I'm not satisfied Mr M has been a victim of fraud.

My final decision

My final decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 January 2022.

Kathryn Milne
Ombudsman