

The complaint

Mr S complains Barclays Bank UK PLC refused to refund a large number of payments he didn't make on his current account. He wants Barclays to refund those payments.

What happened

I summarised the background facts behind Mr S' complaint in my provisional decision. I repeat those facts now for the purposes of this final decision.

Mr S holds a current account with Barclays. On 23 March 2022 he raised a large fraud claim. He said he didn't recognise a very significant number of card payments that debited his account from August 2021 until the claim was raised. All the payments were made mainly online using his debit card details. None of the payments were authenticated by Chip and PIN.

Mr S says he didn't spot the payments earlier due to his focus being on setting up his business in Columbia (a company), where he lived at the time. He has since returned to the UK and is working to rebuild funds to continue his business.

Mr S had been using his Barclays account in part to carry out business transactions, alongside an account he holds in Columbia and an account in the United States of America (USA). From listening to the call where he raised the fraud claim, he said he only realised his losses after a cash flow analysis revealed he had less funds available than expected, which led to a review of his account.

Barclays set up multiple claims to be dealt with together due to the extent of the disputed payments and their system limitations. When Mr S raised the fraud, Barclays' advisor didn't go through each payment individually due to how many payments there were. Instead, they raised most payments based on what they understood the nature of the fraud to be, occasionally asking whether Mr S recognised specific payments.

Many of the payments were to well-known online food delivery and transport companies, and an online marketplace. Barclays reccredited some of the claims at this time, although this didn't mean the funds couldn't be re-debited subject to the result of their fraud investigation. Some claims however weren't initially reccredited due to their higher value.

Prior to the fraud claim, Mr S contacted Barclays in November 2021 because card payments to well-known online media companies were being blocked. The payments were for online marketing and advertising for his company. On a phone call he made to Barclays at the time, he revealed his company used a marketing agency based in the US to make these payments on its behalf. Mr S had given his card details to the agency and entered into a spend authorisation agreement with them, which I have seen - he says this is standard practice for professional services of this type. He confirmed his company entered into no

other similar agreement with any other supplier and the agency did not have access to his online account.

During Barclays investigation they re-credited and re-debited Mr S' account twice. From listening to their calls with Mr S, it's clear he provided information they asked for on several occasions before their submission deadlines. Indeed, Barclays acknowledged on at least two calls that they had received Mr S's information. But Barclays still on one occasion re-debited the disputed funds due to non-receipt of that information, which resulted in the fraud claim being relogged.

In September 2022 Barclays declined the fraud claim, which left Mr S with an overdraft balance after the re-debit of funds. Interestingly, on a call Mr S had with Barclays after the decision to decline his fraud claim was made, he was told Barclays' back-office team would be prejudiced towards declining the claim because it was relogged, even though this was Barclays' error.

On the same call Mr S was told the reason for his claim being declined was due to the large number of times he had logged onto mobile banking and IP addresses on devices used to make payments matching the location of IP addresses he used previously. Mr S insisted he wasn't in the USA or the location of the countries where some of the payments were recorded at the time they were made, and he couldn't use mobile banking.

I've also seen Mr S' log in history doesn't show mobile banking log ins for the period in question and Barclays later confirmed to our service they were referring to Mr S logging onto his online account. Listening to the calls, Mr S said he couldn't use mobile banking due to his mobile number not being a UK number, which Barclays didn't disagree with.

Our investigator upheld Mr S' complaint, but Barclays rejected the outcome and requested a final decision.

I considered Mr S' complaint and issued a provisional decision, upholding the complaint but making different findings and recommending different redress.

My provisional findings were:

"Under the Payment Services Regulations 2017, Barclays is generally liable to refund payments Mr S didn't authorise. After considering all the available evidence I'm satisfied Mr S didn't authorise the payments. I'll explain why.

- Mr S logged onto his account multiple times during the period of the disputed payments to make online transfers, including moving large sums to his current account. I understand Barclays placing some weight on it being unusual he didn't notice the reductions in his account balance and raise a dispute earlier.

But Mr S was still using the account for genuine spend, some of which were large debits out, so he would presumably have expected some significant reductions in his balance. And, in this context I don't find it implausible he failed to notice the reduction in his balance for the reasons he stated – that he was very distracted due to the setting up and running of his fledgling company in Columbia. I've seen that he did set up a company and was using two other non-UK accounts for business expenditure.

Barclays have placed weight on Mr S not spotting disputed payments when he called them in early November 2021. But I don't find him querying why payments for online marketing and advertising were being refused is sufficient to show he more likely than not would have seen the disputed payments on his account at that time.

- The nature of much of the disputed spend is indicative of established card fraud, particularly the frequency and extent of payments made to a well-known online transport and food delivery company and an online marketplace. Barclays commented more than once during the course their investigation on the nature of the spend being out of character for Mr S, including by the fraud investigator. It's also clear Mr S has been a long-standing customer of Barclays, and not raised a fraud claim before. I'm satisfied the nature of the payments supports the conclusion that they resulted from fraud.

Barclays say Mr S previously used the services of some of the companies for which claims have been raised. But I don't find what Barclays have said telling because a very large amount of people are customers of these companies, and they can still go on to experience this kind of fraud by their card details being misappropriated.

Mr S has shown he had an account with the company known for providing transport and food delivery services and he used their services in Columbia, which supports his presence in that country during the period in question. He has made clear that he isn't raising payments made to that company for travel in Columbia during that time. And he has also said he isn't disputing payments to that same company in Dubai when he had a stopover. Presumably he is also not disputing payments which were made to Colombian merchants. If Mr S is disputing some of these payments, I would ask that he reviews the statements which were provided to him previously to highlight the payments he says he didn't authorise.

Mr S said Barclays' advisor may have erred in raising some payments as fraud. And, having listened to how the fraud claim was raised, it's quite possible payments were raised as fraud which Mr S didn't expressly dispute. It's evident Barclays' advisor made presumptions about what payments were fraudulent, rather than going through every payment with Mr S. The advisor went through each month from August 2021, only occasionally raising specific payments, and then told Mr S the total value of payments raised as fraud for each month as they went along.

- Barclays have relied on IP addresses to conclude they think Mr S authorised the payments. But from what I can see Mr S' IP address matched the location of where he said he was, showing he was in Columbia most of the time the payments were made. I haven't seen evidence to show the disputed payments were made on a device registered to Mr S' account or why his presence in Columbia supports him authorising the payments in dispute.
- Barclays have relied on four one-time passcodes being sent to verify four payments. But I haven't seen evidence to show Mr S disputed the payments in question (again taking into account the context of how Barclays' advisor raised the fraud claim) and neither is it clear which payments the passcodes related to or by what method Mr S would have inputted the passcodes to verify the payments, given he wasn't using mobile banking.

- Barclays have placed weight on Mr S not disputing payments made in US dollars in July 2021 and August 2021 when later payments to the same merchants were raised as fraudulent. But Barclays haven't pointed out the exact payments they are relying on and cross referenced those to payments later raised as fraud. It's possible Mr S may not know about the payments Barclays are referring to - it was after all their advisor who reviewed Mr S' account activity and raised claims from the beginning of August 2021 onwards.
- Barclays relied on not finding a point of compromise to explain how Mr S' card details were obtained. But a point of compromise can happen via a variety of means without Mr S' card being physically stolen or lost. A lot of card fraud happens without a customer knowing how their card details were obtained. All that would have been needed was a breach of Mr S' card details and/or Mr S' card being skimmed. Mr S has confirmed he made a trip to the USA in late May 2021 and shown evidence of his fights, so it's possible a breach occurred during this time. But frankly his card details could have been obtained without him having needed to have visited the USA.

Mr S entered into an agreement with an agency supplying them with his card details. But I have seen no evidence to show his losses resulted from this arrangement. So, I am not concluding he failed with intent or was grossly negligent which caused the fraud in question.

So, I don't currently find Mr S should be held liable for the disputed payments. I am inclined to require Barclays to do the following to put matters right:

- Refund each payment Mr S disputed making, excluding the payments he said were made by him which might have been added to the fraud claim unintentionally and payments made to Columbian merchants/payees, and add 8 percent simple interest per annum on each payment until the date of settlement unless those payments were already refunded and not re-debited.
- If Barclays considers that they're required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mr S how much they've taken off. They should also give Mr S a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.
- Restructure Mr S' account as if the disputed payments hadn't been made, refunding any interest or charges that wouldn't have been charged but for those payments, such as any interest or overdraft charges. And (if they exist) remove any adverse credit markers that wouldn't have resulted had the fraudulent payments not debited the account.
- Pay Mr S £150 for the distress and inconvenience he was caused due to Barclays mistakenly re-debiting his account when they concluded he hadn't sent them the information they requested when it was clear he had.

Mr S says he was affected considerably by not being able to continue his business as he wished due to having less funds available to invest. But I'm not awarding losses for how Mr S' company was affected or how he was impacted in relation to his business.

Mr S' account is a personal account, which has express terms that it's not to be used for business purposes. So, I don't find it would be appropriate to compensate him for

the distress or inconvenience he experienced by not being able to use it for purposes outside of the account terms.

Under the dispute resolution rules (DISP) which govern our service, I can only consider losses that arise from a qualifying relationship Mr S had with Barclays in relation to the account. The company Mr S set up is a separate legal person to him and does not have a qualifying relationship with Barclays – it isn't Barclays' customer, so I am not awarding losses it experienced due to Barclays not refunding the disputed payments."

Mr S accepted my provisional outcome. Barclays replied saying they were prepared to accept the provisional outcome but asked whether the complaint could be resolved without the need for a final decision.

I've considered Barclay's request, but I've decided to proceed to final decision. This gives Mr S the opportunity to accept a final decision which is then legally binding on Barclays – so should there be any potential problems later on, Mr S can enforce the decision in court

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've decided to uphold Mr S' complaint for the same reasons I gave in my provisional decision. My provisional findings are copied above and now form my findings for this final decision.

Putting things right

Subject to Mr S accepting this decision, Barclays need to:

- Refund each payment Mr S disputed making, excluding the payments he said were made by him which might have been added to the fraud claim unintentionally and payments made to Colombian merchants/payees, and add 8 percent simple interest per annum on each payment until the date of settlement unless those payments were already refunded and not re-debited.
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- Pay Mr S £150 for the distress and inconvenience he was caused due to Barclays mistakenly re-debiting his account when they concluded he hadn't sent them the information they requested when it was clear he had.

My final decision

My final decision is I uphold Mr S' complaint. I require Barclays Bank UK PLC to put matters

right according to my instructions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 21 September 2023.

Liam King
Ombudsman