

The complaint

Mr S complains Barclays Bank UK Plc unfairly refused to refund him unauthorised transactions on his current account.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr S contacted Barclays in early April 2023 explaining that his card had been lost or stolen and there were transactions on his account that he says he didn't make. These were a combination of chip and PIN and contactless transactions which totalled £264.40.

Barclays considered Mr S's comments alongside the transactions and declined his fraud claim. It explained it had made this decision based on the security systems present on Mr S's card, the nature of the transactions and their location as well as the account terms and conditions. Barclays accepted it didn't send Mr S a new PIN when he requested one and it paid Mr C £25 in recognition of the poor service he received in this instance.

Mr S was dissatisfied with Barclays' response and referred his complaint to our service.

An Investigator reviewed Mr S's complaint and found that Barclays had acted reasonably. They explained that based on the available evidence they thought it most likely Mr S authorised the transactions or authorised someone to make them on his behalf.

Unhappy with the Investigator's review, Mr S asked for his complaint to be reviewed by an ombudsman.

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

Firstly, I am sorry to see Mr S has had cause for complaint. I don't underestimate the worry this situation has caused, and also the stress of dealing with the complaint about it. Having looked at the complaint fully, my review of the evidence has led me to the same overall conclusions as the Investigator previously set out and for much the same reasons. I will explain why.

Under the relevant regulations – the Payment Services Regulations 2017, Mr S is liable for transactions he has authorised – either by carrying them out himself or giving permission for another party to carry them out on his behalf. The PSRs 2017 also set out that where a payment isn't authorised by the account holder, they may still be liable for it if they've failed

with intent or gross negligence to adhere to the terms of their account or keep their personalised security credentials safe.

Barclays has considered Mr S's testimony alongside the technical information it holds about Mr S's account and the transactions to reach the view that Mr S has authorised the transactions. I can't say with complete certainty how the transactions took place, but I must decide whether Barclays concluding that Mr S most likely authorised the payments he is disputing, based on the information available to them, is fair.

I can see that as a starting point Barclays has considered Mr S's testimony around the events at the time of the transactions. Mr S explained to Barclays that the last time he used the card himself was on 3 April 2023 at a pharmacy, using contactless. Mr S last used his card for a chip and PIN transaction around three days before the first disputed transaction, which was made using chip and PIN. Barclays says it can't see how Mr S's PIN was compromised and looking at the available evidence I agree that it is difficult to establish how an unknown third party has intercepted both the card and PIN. Given the timeline and use of Mr S's card there doesn't seem to be an obvious point at which Mr S's PIN could've been detected by an unknown third party, who would've then been able to take Mr S's card on a separate occasion.

In Mr S's case, there seems to be a considerable gap between the last known use of the chip and PIN and the first alleged unauthorised transaction. Mr S says he used contactless in the pharmacy, and this was where he lost his card, or it was stolen. But the first disputed transaction was the following day. I think that if a third party had obtained Mr S's PIN and card then it's likely they would spend funds immediately. The transactions all occurred in Mr S's local area, and although Mr S has explained he wasn't in his local area at the time, I haven't seen any evidence to support this version of events.

I've also considered the transactions themselves, and they are relatively low in value and don't fit the typical spending seen in cases when an unknown third party has obtained a card and PIN. In Mr S's case there is one chip and PIN transaction, and the remaining are small contactless payments. Barclays has also confirmed there no balance enquiries and no attempts to withdraw cash at an ATM. Overall, the activity on Mr S's account doesn't stand out as unusual and had an unknown third party obtained Mr S's card and details, I would've expected the balance to be checked and the available funds to be utilised swiftly. I also think it's significant that there were no attempts to use the card and PIN as soon as Mr S reported his card as lost or stolen.

Overall, having considered everything, all of the available evidence points to it being more likely than not that Mr S provided authority for the transactions. I realise that this is not the outcome Mr S was hoping for, and he will be disappointed by the decision I've reached. As such, I cannot fairly and reasonably require Barclays to take any further action in relation to this matter.

Barclays recognises it should've sent Mr S his PIN promptly when it was requested, and I think the £25 paid to Mr S is a fair approach to this part of Mr S's complaint.

My final decision

For the reasons explained above, my final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 26 March 2024.

Chandni Green
Ombudsman