

The complaint

Mr D complains that Barclays Bank UK PLC (“Barclays”) held him liable for a failed cash withdrawal.

What happened

Mr D explained that he twice tried to withdraw cash from automated teller machines (ATMs). These ATMs weren’t operated by Barclays.

Mr D described how he put his card into the ATM and asked for £80, but the ATM didn’t give him any money. Mr D then tried a second ATM at the same location with the same result.

He later withdrew cash from a different location. He then noticed that both earlier attempts to withdraw £80 had been taken from his bank account and called Barclays about the problem.

Barclays asked the operator of the ATMs to check what had happened and were later informed that one of the withdrawals had been refunded, but the other hadn’t because the evidence from the ATM indicated the cash had been dispensed.

Mr D complained to Barclays about the lack of a refund and how long the investigation took them. Barclays position remained the same regarding the refund, but they did accept that they’d let Mr D down with the service towards him and paid him £25 to recognise this.

Mr D remained unhappy with Barclays decision to hold him responsible for the failed ATM withdrawal and brought his complaint to the Financial Ombudsman Service for an independent review.

Mr D’s complaint was assigned to an investigator who asked both parties for information about the complaint. Mr D was able to confirm his earlier version of events about what happened at the ATMs when he attempted to make two withdrawals.

Barclays didn’t provide any information and the investigator issued his recommendations based on the information available to him at the time. The recommendations were for Barclays to refund the remaining £80 to Mr D and it was commented that:

- Barclays had been unable to show that the ATM was working properly.
- A fault was recorded on the ATM leading to a refund (based on the same ATM being used twice).
- It was acknowledged that there could be several possibilities such as the cash dispensed after Mr D left the ATM or it was retained, but without further evidence, it was unfair to conclude the ATM correctly dispensed the funds.
- Mr D’s testimony was persuasive.
- The £25 payment for the poor customer service was a fair offer in the circumstances.

- The refund should also include interest at 8% (simple) per annum.

Barclays were then able to supply audit details from the failed ATM attempt and argued that the ATM showed the funds (£80) were successfully dispensed and there were no indications that the rejected (purge) bin held additional notes. Barclays disagreed with the outcome and provided further arguments to support their case:

- The rejected notes counter remained consistent.
- Barclays pointed out that the notes were "...stacked and presented at 10:18".
- The notes were taken from the machine.
- There are no other records to supply.

A further report was produced to say that whilst the complaint was finely balanced, there were sufficient doubts about the accuracy of the audit information to uphold the complaint.

- It was clarified that two different ATM's were recorded as being used by Mr D.
- The reports provided weren't conclusive evidence that ATM was operating properly on the day.
- There remained a possibility there was an unexplained issue affecting the ATMs that day.
- There was no data showing if the ATM balanced on the day or whether the purge bin notes were linked to those retained notes.

Barclays responded with further information, stating:

- The ATM was balanced five days after the withdrawals and showed no surplus or deficit.
- Barclays referred to their agreement concerning the operation of ATMs and how the process for disputing transactions was conducted.
- There were successful ATM withdrawals both before and after Mr D's and the purge bin notes remained consistent throughout.
- Barclays believe the cash was dispensed.

As no agreement could be reached, the complaint has now been passed to me for a decision. As part of my own review, I wanted to better understand what happened at the ATMs used by Mr D. Also, it appeared that there were some unexplained timings in the audit report supplied by Barclays. Barclays were asked to provide further clarification on the timings and to request matching audit data from the (unsuccessful) withdrawal.

Barclays were unable to sufficiently explain the different timings and stated that the operator of the ATMs have no further obligation to provide further information to them (Barclays). It was suggested by Barclays that direct contact be made with the ATM operator regarding further information.

For clarification, the audit data says:

Time	Action
020t*116*05/26/2023 10:17	Transaction started/ Card inserted
020t 10:17:48	PIN entered
26 May 23 10:38	Card entered data for balance check
020t 10:18:26	Card taken
26 May 23 10:39	card entered data for cash withdrawal
	No “card inserted” entry
	No PIN entry data
	£80 requested
020t 10:18:30	Notes stacked
020t 10:18:38	Notes presented
020t 10:18:43	Notes taken
020t 10:18:45	Transaction end
	No card taken entry

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.

Some discussion has taken place about the standards of information provided by Barclays. It’s the case here that Barclays weren’t operating the ATM themselves, so relied on the operator of it to provide those details needed to understand what had happened at the ATM.

But, whilst Barclays weren’t directly responsible for the operation of the ATM, they are responsible for the actions of their agent here (the ATM operator).

The relevant regulations are the Payment Service Regulations 2017 (PSRs) and specifically S.75 which states that:

75.—(1) Where a payment service user—

- (a)denies having authorised an executed payment transaction; or
- (b)claims that a payment transaction has not been correctly executed,

it is for the payment service provider to prove that the payment transaction was authenticated, accurately recorded, entered in the payment service provider’s accounts and

not affected by a technical breakdown or some other deficiency in the service provided by the payment service provider.

Plainly that means that once Mr D reported an issue with his withdrawal, it was Barclays responsibility to prove the various systems (including the ATM) were working properly.

I've added bold text above to highlight the specific obligation that lies with Barclays in this complaint.

I've also noted the agreement between Barclays and the ATM operators, including the mechanism they're required to use for disputes. Whilst I appreciate the boundaries of that agreement, Barclays are also required to meet S.75 of the regulations (above).

As I've already mentioned, the audit data provided by the ATM operator to Barclays had several question marks over it which I've asked Barclays to provide further information about. I note Barclays suggestion that the ATM operator be contacted directly by our service. But, the responsibility here is for Barclays to show the transaction met the conditions laid out in S.75, not anybody else.

The specific issues are the two sets of timings present in the audit information, set out in the table above. It can be seen that two different timelines are running, one starting at 10:38 and another at 10:17. There's a third timeline for other blocks of data, but I've not further looked at these as they don't appear directly relevant to the complaint.

Clearly both of them can't be correct, but these differences, which Barclays were unable to sufficiently explain, do give me pause when it comes to the accuracy of the information provided to Barclays. There are also a number of lines missing which I would have expected to have been present. These are the (in bold in the table) missing "card inserted" (after showing it was taken after the balance check, also no "PIN entered" and finally no "card taken" entry after the end of the withdrawal attempt.

Having attempted to gather further information about the complaint, Barclays haven't been able to provide clarification from the ATM operator about the timings, so I've had to base my decision on the evidence I do have. I recognise that other audit data shows the cash was dispensed and the purge bin had the correct funds in it, but overall, I'm not sufficiently convinced about the accuracy of the information from the ATM. What that assessment means here is I'm satisfied there's sufficient doubt raised in the evidence from the ATM operator that indicates there was likely an issue with it at the time.

S. 91 of the PSRs goes on to deal with the refund of transactions that are defective payment transactions. In summary, it says where the transaction was defective, it's the payment service providers (Barclays) responsibility to refund the payer (Mr D) and put the account back where it was prior to the transaction.

As the ATM has been shown to have had some form of deficiency due to the conflicting timelines and missing data, the requirements of S.75 haven't been met and S.91 is applicable.

I've also considered the secondary complaint regarding the customer service aspects of the process and the £25 payment for their oversight is, I think, a fair and reasonable way for them to deal with this matter and I won't be asking them to do anything further as regards this specific issue.

Putting things right

In order to finalise this complaint Barclays should now refund Mr D £80 including simple annual interest at 8% from the date of loss to the date of settlement.

My final decision

My final decision is that I uphold this complaint against Barclays Bank UK PLC and they're instructed to settle it as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 1 March 2024.

David Perry
Ombudsman