

The complaint

Mrs M says Barclays Bank UK PLC unfairly refused to refund transactions she reported as fraudulent on her account.

What happened

The detailed background to this complaint is well known to both Mrs M and Barclays. So, I'll only give a quick overview of some of the key parts.

In mid-February 2023 Mrs M contacted Barclays as she said there were some transactions on her current account she didn't recognise. These transactions started in mid-December and went on for two months. There were many transactions which came to just under £13,000.

Barclays reviewed Mrs M's concerns. During its review it found the transactions were made by Apple Pay, contactless and chip and PIN. Barclays also got details from Mrs M about her circumstances at the time. After reviewing the transactions and Mrs M's comments Barclays declined the claim. It said it couldn't find any evidence of fraud and it believed Mrs M had authorised the transactions.

Barclays did however say the service it provided to Mrs M whilst dealing with her claim was poor and it paid Mrs M £150 for this. Barclays also cleared the £281.48 debt on Mrs M's account as a gesture of goodwill.

Mrs M was unhappy with Barclays' response and brought her complaint to our service.

An Investigator reviewed Mrs M's complaint and said Barclays had acted reasonably. They said that based on the available evidence they thought Mrs M probably authorised the transactions or allowed someone to make them for her.

Unhappy with the Investigator's review, Mrs M asked for her 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 have to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I think is good industry practice at the time.

Firstly, I am sorry to see Mrs M has needed to complain. I'm sure this has all been very worrying and stressful for her. But having looked at the complaint fully, I have reached the same overall conclusions as the Investigator did and for much the same reasons. I will explain why.

Under the relevant rules – the Payment Services Regulations 2017, Mrs M is responsible for transactions she has authorised – either by doing them herself or giving permission for someone else to do them for her. The PSRs 2017 also set out that where a payment isn't authorised by the account holder, they may still be responsible for it if they've not been careful to follow the terms of their account or keep their personalised security details safe.

Barclays has considered what Mrs M told them alongside the technical information it holds about Mrs M's account and the transactions to reach the view that Mrs M has authorised the transactions. I can't say for sure how the transactions took place, but I must decide whether Barclays concluding that Mrs M most likely authorised the payments she is disputing, based on the information available to them, is fair.

Firstly, I have to consider Mrs M's comments about her card and PIN. There have been many chats with Mrs M to find out her circumstances when the transactions happened. Mrs M has said she wasn't well at the time, and what Mrs M has said happened keeps changing. I'm sure this has been a time-consuming and upsetting process for Mrs M. However, it is important to understand Mrs M's situation at the time to understand how the transactions she has disputed may have occurred.

Mrs M said that during this time she was unwell and didn't use her account as she went to stay with her mother to help her recovery. Mrs M's partner managed their home during this time and her mother cared for her. Mrs M said her card was in her home, but she didn't know if anyone else had access to it. Mrs M says she didn't write her PIN down or give it to anyone, including her partner. Mrs M has said there was a break in at her home at some time, but exact details about it haven't been given to us.

The transactions she has disputed were verified in different ways, but for the contactless and chip and PIN transactions Mrs M's actual card and PIN would've needed to be used. Based on Mrs M's comments it is difficult to know how someone else could have had both the card and the PIN. Barclays has also provided proof that there were no PIN change requests or new cards issued during those two months.

The remaining transactions in dispute were carried out using Apple Pay. Mrs M has confirmed she had her phone with her when she was at her mother's home. The data from Barclays shows Apple Pay was set up on more than one device, some of which Mrs M says she doesn't know about. It seems Apple Pay was set up on these devices for quite a while, and not just for the two months of disputed transactions. It is also important to remember that for Apple Pay to be set up Mrs M's phone, passcode and card details would be needed. Based on Mrs M's comments I can't see how an unknown person would be able to access all these details many times to set up Apple Pay without Mrs M's consent and do the transactions she has disputed.

The transactions were spread over an eight-week period, and I have to keep in mind this pattern doesn't match what we usually see in cases like this. Usually if another person somehow gets a card, they spend the available credit quickly to get as much as they can before the card is reported lost or stolen. The transactions in Mrs M's case are for different amounts and take place at very different times of day to a range of businesses. It seems unlikely that an unknown person would've taken these risks to carry out the transactions in this way.

I've also considered what the transactions were for, and it looks like they match what Mrs M spent on her account before she reported the possible fraud. The transactions are to businesses Mrs M has used many times before, and many of them are the normal transactions you would expect to see on an account for a family. I think it's highly unlikely an unknown person would use the account in this way.

I have to also remember Mrs M had access to online banking on her phone. Mrs M says she didn't log into her account online, but the data from Barclays shows her online banking was logged in many times over the two-month period. Mrs M says she didn't give her online log in details to anyone else. The transactions would've shown on Mrs M's account, so I would've expected her to pick up on these transactions sooner than she did.

Having considered all of the available evidence it seems more likely than not that Mrs M authorised the transactions. I know that this is not the outcome Mrs M was hoping for, and she may be disappointed by the decision I've reached. But I cannot fairly and reasonably ask Barclays to refund the transactions.

Barclays knows it should've been clearer with Mrs M during its online chats with her. I think the £150 paid to Mrs M, and its goodwill gesture to clear the debt on the account is a fair approach to this part of Mrs M'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 Mrs M to accept or reject my decision before 7 March 2024.

Chandni Green
Ombudsman