

## **The complaint**

A company which I'll call 'M' complains that Barclays Bank Plc treated them unfairly when it reviewed several of their transactions for fraud purposes.

The complaint is brought on M's behalf by their director, Mr M.

## **What happened**

M had an agreement with Barclays for it to process their merchant service card payments.

M told us:

- On a Friday in mid-October 2023, they processed a card payment over the phone for the sale of high value goods. Due to the Covid pandemic, it was now common for this type of transaction to take place in their business, so this didn't seem unusual.
- Their customer said they were going to pay the outstanding balance across two cards, the first payment for £4,000 was processed straight away, but the second payment for £3,395 was declined. They tried this payment several times, but it was declined.
- The customer said they'd contacted their bank who advised the card would be useable after 24 hours, so they tried again on Sunday, and the £3,995 transaction was accepted. The goods were then collected by a third-party company later that day.
- On the following day, they checked their bank account and discovered that the first £4,000 wasn't showing, only the £3,995. They contacted Barclays, and then discovered that this had been a fraudulent transaction.
- Barclays had been aware of the fraud since the first £4,000 had been processed on Friday but didn't contact them before they'd taken the outstanding balance for the goods and released it to the third-party on the Sunday. Nor had it contacted them at any point, they'd had to chase Barclays for an explanation on the Monday for why their payment hadn't been received.
- Barclays hadn't treated them fairly and should be responsible for refunding the £7,995 cost of the goods they were now missing.

Barclays told us:

- M had agreed and accepted the merchant agreement terms and conditions which set out their obligations when taking card payments.
- In mid- October, after M had taken the £4,000 'card not present' ('CNP') payment, its risk system triggered an alert due to the number of attempted transactions to take this £4,000 payment.

- Its risk team called Mr M a couple of days later to discuss the transactions. Mr M said that the same person had made multiple attempts using different cards to make the payment – some of which hadn't been authorised.
- The initial payment of £4,000 hadn't been able to be released as the customer's name given to M didn't match the genuine cardholder. So, it hadn't been able to release the payment until a full review had been undertaken – when it was established that this was a fraudulent transaction. So, this payment wasn't credited to M's account.
- After the review, it was identified that the £3,995 payment was also fraudulent, and this was returned to the genuine cardholder's account. It had suggested to M that they contact the police about the fraud.
- When undertaking the review, it identified that M hadn't met the terms of the merchant agreement by not cancelling the CNP transaction when the goods were collected in person and taking a new 'card present' ('CP') transaction instead, and also allowing the goods to be collected by a third-party. So, it wouldn't cover the cost of the stolen goods.

Our investigator didn't recommend the complaint be upheld. He said that when M had entered into its agreement with Barclays, they'd been provided with a copy of Barclays terms and conditions which specifically said goods shouldn't be released to a third party acting on behalf of the card holder where a CNP transaction had taken place. And that upon collection of goods, a new CP transaction should be undertaken instead. Our investigator thought that the circumstances of the CNP transactions and number of attempts required for payment should have given M cause for concern not to release the goods. He also didn't think Barclays was required to tell M that it had referred the transaction for a fraud check, which hadn't yet taken place.

M didn't agree and asked for an ombudsman to review their complaint. So, the case has been passed to me to decide.

### **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 decided not to uphold it. I'm sorry to disappoint M but there's not much more that I can add to what our investigator has already said.

I recognise that M is unhappy as they say Barclays should have warned them with regards to the fraud. But I'm not persuaded that's the case. I say that because although Barclays had raised a query internally to review the original £4,000 payment, I've seen that the investigation hadn't yet taken place at that time the goods had been released, and the payment was still waiting to be reviewed. I've looked at the timescale involved here, and I'm not persuaded that this was unreasonable, so I don't think Barclays could have given M any further information before they had chosen to release the goods to the fraudster.

Furthermore, I've looked at the terms and conditions of M's agreement with Barclays and I can see that there is a dedicated section on 'Split payments' where larger goods are paid for across multiple cards. It says that split sales may take place, however Barclays only recommends this if the card holder is present and this shouldn't be used for phone, mail order or e-commerce transactions as merchants can't confirm their customer is genuine and will be at risk of chargeback claims. I've seen evidence that M was given over ten different

card details for their customer to use to purchase the goods, so I think this ought reasonably to have raised concerns with the business – particularly as the terms highlight these types of transactions may be fraudulent.

However, even if M believed that these cards did all belong to their customers, I think the 'Accepting Card Not Present (CNP) transactions' section of the terms and conditions is clear that merchants should understand there are increased risk with regards to chargebacks on CNP transactions, and that Barclays cannot guarantee that the person giving the card details is genuine. The terms also say that goods shouldn't be released to a third-party for the card holder and when collecting goods, the CNP transaction should be cancelled, and a new CP transaction applied – with the relevant checks undertaken. However, M didn't follow the terms of the agreement and released the goods to a third-party. So, I can't reasonably hold Barclays responsible for M's loss here.

I recognise that M believes they shouldn't be responsible for the loss here and I also understand that they believe Barclays service was poor as it could've raised its concerns with them about the fraud. I do have some sympathy for M here and I recognise that they'll be disappointed with my decision. However, Barclays wasn't responsible for the loss either and it has simply followed its process and I don't think has done anything wrong. Therefore, I won't be asking it to refund the cost of the goods which were taken by the fraudster.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask M to accept or reject my decision before 14 June 2024.

Jenny Lomax  
**Ombudsman**