

The complaint

Mr C complained because Barclays Bank UK PLC refused to refund him for a transaction he said he didn't make.

What happened

On 16 June 2023, there was a £2,500 credit into Mr C's Barclays account. He was expecting this, which he said a friend had sent him to buy an engine.

Mr C said that later that day, he was sitting in his van when he was approached by a man and a woman. The man became aggressive and the woman stole Mr C's phone.

The next day, Mr C went into a Barclays branch to withdraw the funds to buy the engine for his friend. But there had been an outgoing payment for £1,955 around 5 am that day. Mr C told Barclays that he hadn't authorised that payment and it was fraudulent.

Barclays investigated. The payment had been made using Mr C's registered phone and his Barclays mobile banking security details. This included a five digit code which Mr C had set up himself when he opened the account. Mr C had told Barclays that he hadn't told anyone his security details, and he hadn't written it down anywhere. So Barclays refused to refund Mr C, because it believed he was the only person who could have authorised the disputed payment.

Mr C complained. In Barclays' final response letter, it said it was sorry to hear Mr C had been attacked and his phone had been stolen. It said it had tried to speak to Mr C for more information about what had happened when the transaction had been made. It had tried on both his registered phone number and also on the other number he'd given them. But as Barclays hadn't been able to speak to Mr C, it couldn't overturn the original decision.

Mr C wasn't satisfied and contacted this service. He said he'd got a new phone from a friend. He said his mobile banking passcode wasn't stored anywhere, nor was it written down.

Our investigator didn't uphold Mr C's complaint. She said that Mr C's genuine mobile, and correct mobile banking log-in details, had been used to access the account in order to make the transaction. Given what Mr C had said about not writing down or disclosing his log-in details, she couldn't see how any third party could have known the correct security details. And she also said that she didn't see how third parties unknown to Mr C could have known about the incoming large credit which had funded the disputed transaction.

Mr C didn't agree. He said maybe the phone had been open when it had been stolen, but he didn't remember what he was doing at the time. He said that the person who'd received the money should be questioned about where they got it from. Mr C asked for an ombudsman's decision.

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.

There are regulations which govern disputed transactions. The relevant regulations here are the Payment Services Regulations 2017. In general terms, the bank is liable if the customer didn't authorise the payments, and the customer is liable if they did authorise them. The regulations also say that account holders can still be liable for unauthorised payments under certain circumstances – for example if they've failed to keep their details secure to such an extent that it can be termed "*gross negligence*."

The regulations mean that the issue for me to consider is whether it's more likely than not that it was Mr C, or an unknown third party fraudster, who carried out the disputed £1,955 transaction.

I recognise that Mr C has said that he wants the recipient of the money questioned. But that's not what decides the outcome here. What matters in deciding who's liable for the money is who authorised the payment, not where it went.

I've looked at the technical computer evidence about the payment. This shows that it was made using Mr C's registered mobile. It also shows that whoever made the payment knew Mr C's 5-digit mobile passcode, because that was used to access Mr C's mobile banking. As Barclays and our investigator said, it's not clear how anyone other than Mr C could have known this.

I've also considered the timing of the payment. The statements that I've seen show that Mr C's account hadn't previously received a credit as large as the £2,500 which went into Mr C's account on 16 June. And his balance was usually significantly less than this. So it seems a considerable coincidence if any third party fraudster happened to have gained access to Mr C's phone and security information on the day of such an unusual credit.

Also, the transaction didn't happen immediately after Mr C says he was punched and his phone stolen. He's suggested his phone might have been open at the time of the theft. But he hasn't said that he was using his Barclays mobile banking at the time of the incident on 16 June. And even if he had been accessing his mobile banking at the time, it would have timed out very quickly. So if a third party fraudster really had stolen the phone just when Mr C was logged into and was using his mobile banking, I'd have expected the disputed transaction to have happened immediately.

But it didn't, and instead, it took place around 5am the following morning. So no third party fraudster could have accessed Mr C's account at that time, simply by using mobile banking which might have already been open and in use when they stole the phone.

There was also money left in Mr C's account after the disputed transaction. I don't think it's likely that a third party fraudster would have left money in an account to which they'd obtained access.

A relative of Mr C sent us photos of letters from the police about the incident. These include one saying that the police had tried to contact Mr C but hadn't been able to, and if it didn't hear from him, the crime report would be closed. While I appreciate that Mr C's relative was trying to help, this information doesn't affect the outcome of Mr C's complaint about Barclays. That's because what decides the outcome is whether it's more likely than not that it was Mr C himself, or a third party fraudster, who carried out the disputed transaction.

Having taken all the evidence into account, I can't see how any third party fraudster could have known Mr C's security information to log into his mobile banking. This means it's more likely than not that it was Mr C who carried out the disputed transaction himself. So Barclays doesn't have to refund him.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 30 April 2024.

Belinda Knight
Ombudsman