

The complaint

Mr O complains Barclays Bank UK PLC (“Barclays”) refuses to refund him for a large number of transactions which he made during he was mentally unstable. Mr O thinks Barclays should’ve blocked the transactions on account of Mr O’s vulnerabilities.

Mr O is represented in this complaint, but to keep things simple I will just refer to Mr O in this decision.

What happened

Both parties agree that these transactions were made by Mr O.

Mr O says he started gambling online during a period of challenging mental health when he didn’t have the mental capacity to make sensible decisions about his finances. He says Barclays should have been alerted to the fact that he was making so many payments to gambling websites and should’ve done something to intervene. He says even now that Barclays has been made aware of his vulnerabilities it has not refunded him the transactions in dispute.

Mr O also complains about the level of service received from Barclays throughout this process. Specifically, about the complaints being mixed up, closed as duplicates, and about the fact he was told it would refund him for these transactions, but Barclays is now refusing to do so.

Barclays says it was only made aware of Mr O mental difficulties in May 2023. So, it says it wasn’t aware Mr O was a vulnerable customer at the time these transactions were made, so it couldn’t have been expected to intervene. Barclays agreed that the service it provided was not adequate and have paid Mr O a total of £230 in compensation for this.

Our investigator considered all the evidence provided by both parties and decided not to uphold this complaint. Mr O didn’t agree so the complaint has been passed to me for a 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.

When considering what’s fair and reasonable, I’m required to take into account relevant law and regulations; the regulator’s rules, guidance and standards; the codes of practice; and, where relevant, what I consider good industry practice at the relevant time. I’d like to reassure both parties that although I’ve only given an overview of what happened, I’ve read and considered everything we’ve been provided in its entirety.

were the transactions authorised by the consumer?

Generally speaking, Barclays is required to refund any unauthorised payments made from Mr O's account. Those rules are set out in the Payment Service Regulations 2017.

The transactions were all online transactions made via Apple Pay to gambling websites. Mr O has told us that he carried out these transactions himself. In fact, he even told us why he started gambling initially and that he continued to work in order to fund his gambling spend. As there is no dispute that Mr O made these transactions himself, I do not need to consider this point further as both sides agree Mr O authorised these transactions.

what's fair and reasonable in the circumstances of the complaint?

Mr O says even though he made these transactions himself he was not mentally sound at the time, and he thinks Barclays should've intervened on account of his vulnerabilities.

My role is to look at all the evidence, and then reach a decision that takes this into account and is fair to both parties. That means I consider Barclays' position as much as I do Mr O's. And what Mr O's asking for here is for Barclays to use its own funds to pay him back money that he says he spent from his account.

I've looked at all the evidence provided by Mr O about his medical diagnosis and how this would've affected him. I've also considered what he said about his difficult circumstances at the time. Firstly, I would like to say I am sorry to learn of Mr O's difficulties at the time and his medical challenges. However, I can't expect Barclays to have done anything to protect Mr O or safeguard his account in any way unless it was informed. Barclays has provided evidence that it was only aware of Mr O's vulnerabilities in May 2023, when Mr O made this complaint. And this matches with what Mr O has said about his discussions with Barclays. So, without any knowledge of his vulnerabilities I don't think it's fair to expect Barclays to have blocked these payments.

Banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering. So, I've also considered whether Barclays should have been aware that someone else may have been trying to influence or scam Mr O and stepped into question him about the payments he was making. But the transactions in dispute started off very small, with the first few payments for £5 or £10. And these payments were to well-known, established companies. Many people enjoy gambling, and it is not for Barclays to tell people when and how they should spend their money. The payments were authorised using Mr O's usual device and there was nothing suspicious in nature about the transactions. The transactions also didn't push Mr O into overdraft at any point, so there was nothing to suggest Mr O wasn't managing his finances. So, I don't think these transactions should've raised a red-flag which would've caused Barclays to intervene.

do I think Barclays need to do anything further?

I've looked at Mr O's complaint about the service received throughout making these complaints. Mr O is specifically not happy that he was told by someone at Barclays that these transactions would be refunded. Barclays responded to Mr O and awarded £230 in compensation for the errors made in their complaint handling. And even if someone did tell Mr O that the transactions would be refunded this is not enough for me to uphold the complaint against what I think is fair and reasonable in the circumstances. I also don't think Barclays need to pay any more compensation in light of this.

Overall, I think these transactions were authorised by Mr O and I don't think Barclays should reasonably have been expected to intervene. I also don't think Mr O is due any further compensation for the mistakes made in Barclays' complaint handling. While I know this will come as a disappointment to Mr O, I am not upholding this complaint.

My final decision

I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 31 May 2024.

Sienna Mahboobani
Ombudsman