

## **The complaint**

Mr F complains that Barclays Bank UK PLC ("Barclays") failed to refund transactions he didn't recognise.

## **What happened**

Mr F explained that whilst visiting a night club, his phone went missing. He later said that he'd been speaking with a person who was unknown to him and left to purchase some food. Shortly after, he realised his phone was gone. He said that he wasn't concerned for the protection of his accounts as his phone was protected with a personal identification number (PIN) and his online banking accounts had different passcodes to access them.

He went on to say that when he woke the following day, he decided to check his Barclays account and was able to download a new mobile banking app on his relative's phone. At this point Mr F realised a large number of unrecognised transactions had occurred on his account. About £7,000 had been either spent or transferred to other bank accounts.

Mr F contacted Barclays about the loss where it became apparent that Barclays had earlier been speaking to someone who claimed to be Mr F. Barclays had blocked a number of transactions because they were suspicious of them and had held several conversations with whoever was acting as the account holder.

Mr F said that this wasn't him and told Barclays about losing his phone and his debit card. Mr F was asked how he'd been able to set up the new app on his relative's phone, because it required the actual debit card to be used to authenticate further security on a separate physical device. Mr F then told Barclays he meant the phone had a contactless card on it (Apple Pay) and he'd retained the physical card. In later conversations, Mr F confirmed he hadn't had Apple Pay on his phone at the time of its loss.

Barclays asked Mr F some further questions to understand the situation. They wanted to know how the thieves had known his card details and the PIN (which would be required to activate any further features such as Apple Pay or re-activate the app). Mr F wasn't initially sure how this could have happened, but later told Barclays he had photographs of the card on his phone and had previously asked another relative to send his PIN which was contained in an old text message. Barclays told Mr F this wasn't in line with how the terms operated for his account concerning the security of his details.

Barclays looked into the audit information concerning the transactions and use of Mr F's mobile banking app. They concluded it was unlikely to have been an unknown third party and declined to make any refunds to Mr F. Mr F raised a complaint which didn't change Barclays mind.

Mr F was left unhappy with how Barclays had dealt with his claim and brought his complaint to the Financial Ombudsman Service for an independent review. An investigator was assigned to look into the situation and asked both parties for information about the complaint.

Mr F was able to say:

- He lost his phone whilst on a night out but wasn't worried about his funds as they were protected by separate passcodes.
- Once he checked his account he notified Barclays, his phone provider, and the police.
- He blocked his phone and purchased another one.
- He had multiple emails showing other accounts had been changed.
- He believed someone had seen him enter his PIN for his phone and then stolen it.
- He was concerned that Barclays hadn't stopped his card due to the multiple transactions being made from it.
- Mr F said he believed he'd carried out several transfers to another of his accounts, but this was prior to the loss of his phone.

Barclays didn't provide their information for some time and the investigator recommended that because of this, they'd failed to show the transactions were authorised and should refund Mr F.

Barclays were then able to provide their evidence, which in summary said:

- Mr F's banking app was re-registered earlier that morning and needed the debit card details and it's PIN in order to carry out the new registration.
- Several calls were received from someone claiming to be Mr F. They passed security but were then asked some further identity questions but claimed they didn't understand/couldn't hear the questions so they were cancelled by Barclays.
- Barclays recorded a new phone number was used on Mr F's device which was after Mr F said he'd lost his phone, but transfers to Mr F's other account used this same device and number. Mr F later said he believed he'd carried out those transfers.
- Similar IP address data was used for both disputed and undisputed transactions.
- Mr F had given different versions of what happened.
- Barclays didn't believe the available evidence supported Mr F's assertion that his device or banking app was compromised.

After reviewing the evidence, the investigator didn't think that Barclays needed to make a refund to Mr F. They thought Mr F was likely responsible for the payments. They said:

- Mr F changed his story when asked about his debit card. He said that it was the contactless card on his phone that was used, but later said he hadn't got this feature on his phone.
- Mr F told Barclays he didn't know how his card details and PIN had been found, but then said he had a photo of his card and a text message with the PIN on his phone. He later said to our service the PIN was written in his notes app on his phone. The evidence was contradictory and there's no plausible evidence how the PIN was compromised.

- The PIN was required to re-register the app.
- The caller to Barclays knew personal details about Mr F that an unknown third party would be unlikely to have.
- The transfers to Mr F's other account were made after the phone was reported lost (stolen).
- The time between losing the phone and reporting it was thought to be an overly long time.
- Some of the phone evidence wasn't supplied by Mr F.

Mr F disagreed with the investigator's outcome and made several further comments:

- He said: *"...When I woke up, I thought to just double check my bank account with Barclays to see if everything was okay. At this point in time, I had no worries regarding my bank account balance as I believed my phone was secure and it would have been impossible for someone to have gotten into it."*
- He confirmed he changed his answer (about the card being stolen) when questioned by Barclays but this was due to the panic and shock he was experiencing.
- He said he didn't make it clear to Barclays that he had a photo of his card and the record of his PIN on his phone because he was afraid what Barclays would do if he told them what he'd done.
- The fraudsters had long enough to access his phone and given the card and PIN were on it, it's plausible they used this to re-register the app. They could also access many other documents and details to find out about his personal and work history to answer some of Barclays security questions.
- Mr F had registered with a fraud prevention agency because he was concerned of further attempts to use his details.
- His other bank had different passcodes than his Barclays account, confirming Mr F's belief that it was him that made those transfers because it wouldn't have been possible for the fraudsters to gain access to that account.
- His memory of that night is not as clear as he wished it to be.

As no agreement could be reached, the complaint has now 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.

The relevant law surrounding authorisations are the Payment Service Regulations 2017 and the Consumer Credit Act 1974. The basic position is that Barclays can hold Mr F liable for the disputed payments if the evidence suggests that it's more likely than not that he made them or authorised them, but Barclays cannot say that the use of the card and PIN or the use of Apple Pay or online payment details for bank transfers conclusively proves that the payments were authorised.

Unless Barclays can show that consent has been given, it has no authority to make the payment or to debit Mr F's account and any such transaction must be regarded as unauthorised. To start with, I've seen the bank's technical evidence for the disputed transactions. It shows that the transactions were authenticated using the payment tools issued to Mr F.

It's not our role to say exactly what happened, but to decide whether Barclays can reasonably hold Mr F liable for these transactions or not. In doing so, I'll be considering what is most likely on a balance of probabilities.

Both parties have supplied evidence supporting their version of what happened following Mr F's loss of his phone. Mr F has said someone took his phone and used it to make numerous payments through a contactless feature on his phone (Apple Pay) after re-registering the banking app to gain access to his account and make transfers to other accounts.

Barclays don't believe the evidence supports this assertion and they think Mr F was responsible himself. I've carefully examined the evidence in this complaint, including all of Mr F's submissions and copies of his evidence. There are a number of factors that have persuaded me not to uphold it. I realise this will come as a disappointment to Mr F, but my decision is based on an objective review of the evidence, and I've noted the following:

- Mr F's version of events has evolved throughout the complaint. Whilst I expect some changes when dealing with a person's memory over time (particularly given the circumstances of this particular case), here Mr F has seemingly adapted his answers to support his own case. He admits he avoided telling Barclays certain things about his account in order to put himself in a better light.
- When Mr F was faced with the question concerning the use of his debit card to re-register his own app, he had to change his answer about the card he meant – saying it was a contactless version on his phone. Taking into account the changes to his story – the evidence doesn't support there was this feature on his phone at the time and Mr F himself later told our investigator he hadn't enabled it – so couldn't have known it was on the phone.
- Mr F then changed how those details about his card and PIN were stored – he initially told Barclays he hadn't got them stored, then said it was a picture of his card and a text message about his PIN, later saying the PIN was kept in the notes section of his phone.
- Mr F was asked about the transfers made to another of his own accounts – he said he believed it was him as it fit the patterns of other payments he made to it. He then said his other bank had different passcodes which weren't kept on his phone – so the user of his phone couldn't access it – so there would be no reason for them to send it the transfers to the account as they'd lose access to that money. I agree with Mr F's assessment here – there would be no reason for anyone other than himself to send those funds. Mr F believes he sent them prior to the loss of his phone but the audit data (which I've no reason to doubt) shows Mr F's (stolen) phone was used to make transfers to his own account after the time he said it had been stolen. It's doubtful Mr F could have taken possession of his phone back, made the transfers to his own account and lost the phone again without realising what had happened.

So, given the evidence of the various changes in story and the use of the phone by Mr F after he said it was stolen, I think on balance that it's more likely than not the disputed transactions were made either by Mr F or someone with his permission. I think it was both fair and reasonable that Barclays held him liable for the transactions and I won't be asking them to do anything.

During his complaint, Mr F was critical of Barclays about their lack of action when multiple payments were made using his account. I don't think, given my findings about this complaint, that it would have made any material difference whether Barclays acted or not. Although I did think the pattern of card payments could easily be seen as unusual.

### **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 F to accept or reject my decision before 17 October 2024.

David Perry  
**Ombudsman**