

The complaint

Mr P complains Barclays Bank UK PLC have refused to refund him several card transactions he claims are fraudulent.

What happened

Mr P contacted our service and explained over £480 had been taken out of his Barclays bank account by card transactions without his authority.

The disputed transactions are two local cash withdrawals and two chip and PIN payments to a merchant at the same location. These transactions all occurred on 11 February 2024. The other transactions are a series of small transactions through a mobile device to a website, all occurring on 9 February 2024.

Mr P said Barclays decided the seven or eight transactions he disputed were not fraud as his card and PIN had been used. Mr P explained to our service he had not given his card or PIN to anyone. Mr P explained he thought someone had got his details and been able to take money from his account. Mr P also explained one of the chip and PIN payments was for a petrol station explaining he didn't drive or have a car as he was disabled. Mr P said he wants a full refund.

Barclays said it would not refund any of the transactions. Barclays provided our service with the recording of a phone call between Mr P and one of its fraud advisers. During this call Mr P explained he provided his debit card and PIN to a woman he saw outside his home who was upset on 11 February. He explained he agreed with her she would use his card to get £50 for a taxi. She left and later returned his card to him. He explained this unknown third party also had access to his phone during this interaction.

During this call the adviser explained Barclays had recognised potential fraud and had successfully managed to stop transfers totalling £2,600 but several card transactions had been successful. Mr P accepted he had been 'scammed' and was clearly upset about the situation. Barclays arranged to cancel his card and send out a new card and PIN.

Barclays also explained the transactions to the website made on 9 February were made using Mr P's usual mobile device, authenticated using either TouchID, passcode or face recognition and were also made from the IP address Mr P usually accesses his internet banking.

Our investigator didn't think Barclays need to refund these transactions as Mr P had, by his actions, apparently authorised a third party to make them and had admitted providing his card and PIN to this person on 11 February. Our investigator explained the correct card and PIN had been entered for the cash withdrawals and the contactless payments were also made moments later at the same location.

Our investigator also thought, as Mr P had said he had not given his mobile device to anyone else and that the transactions to the website occurred before he gave his mobile device to the woman mentioned above, Mr P must have made these transactions.

Mr P disagreed with our investigator's recommendation, his complaint has therefore been passed to me to make a final decision. Mr P has since reiterated to our service he did not give his card and PIN to anyone.

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.

I appreciate how strongly Mr P feels about his complaint. Although I may not mention every point raised, I have considered everything but limited my findings to the areas which impact the outcome of the case. No discourtesy is intended by this, it just reflects the informal nature of our service.

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. So, the issue for me to determine was whether it was more likely than not that Mr P carried out the transactions himself. Importantly, if he authorised someone else to carry out the transactions for him, this would also be considered as carrying out the transactions himself.

Firstly, dealing with events of 11 February, what I need to consider here is whether Mr P authorised these transactions. This is a technical decision, based on his actions at the time. Because a third party is involved, the test is whether Mr P did or said something that permitted a third party to undertake the procedure for giving consent on his behalf.

I appreciate Mr P has since denied he provided his card and phone to a third party, and I have considered his comments since our investigator's view was issued.

I have carefully listened to the call to Barclays where Mr P explained he gave his card and PIN to a third party and am persuaded this was a genuine and honest admission regarding what occurred on 11 February. I can see no reason and think it unlikely Mr P would have given such a detailed explanation and said what he did during this call if it were not an accurate version of what happened. This explanation also corresponds with the disputed transactions and explains fully how transfers were also attempted.

Furthermore, for balance I have considered the likelihood of the alternative version of events Mr P has explained to our service since raising his complaint. Having done so if I were to prefer his more recent version of events - that his PIN and card staying in his possession throughout - this does not explain how these transactions could have occurred.

Having considered all the evidence including the disputed transactions, I am persuaded, on balance, Mr P did give his card and PIN to a third party he did not know and also provided access to his phone.

Having decided on what I think is the most likely version of events, I must now consider whether this Mr P did or said something that permitted a third party to undertake the procedure for giving consent on his behalf.

I think the evidence suggests Mr P did give the third party apparent authority. The action I consider suggest this is he allowed this individual access to his card and by providing his PIN for this card, demonstrated an apparent authority relationship. Mr P then allowed this individual to leave his address and make the transactions unsupervised having voluntarily provided the necessary means and information to undertake these transactions.

I fully appreciate Mr P was acting in a kindly and charitable manner when he provided his card and PIN to this individual and I am very sorry his good nature was taken advantage of. Sadly, whilst I do not doubt Mr P's sincere intentions and that he did not want this unknown

third party to make the transactions they did, I find these actions are entirely consistent with Mr P giving apparent authority for the use of his card and I therefore cannot reasonably hold Barclays liable for these transactions.

Now considering the transactions to the website. I have considered this was before the 11 February and Mr P has said he did not provide access to his mobile device or card before this date. However, the evidence I have seen provided by Barclays corresponds to Mr P authorising these transactions for the following reasons:

- His usual mobile device was used, the only device registered since 2023
- Full card details were used
- TouchID, Face Recognition or passcode would have been needed on the banking app to make the payments.
- The debits would have been visible to Mr P but he delayed reporting these transactions
- The transactions were made from the IP address Mr P usually uses for internet banking login.

For these reasons, I do not think, on balance, anyone else other than Mr P, or someone he had authorised, could have made these transactions from the evidence I have seen and it would not be reasonable to hold Barclays liable for these payments.

My final decision

For the reasons I have given, it is my final decision this complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 6 September 2024.

Gareth Jones
Ombudsman