

## **The complaint**

Mr B has complained Barclays Bank UK PLC is holding him liable for a loan of £4,900 which he didn't take out.

## **What happened**

On 2 August 2023, whilst he was at the gym, Mr B got a couple of text messages from Barclays. These confirmed a loan had been approved and that a new payee had been set up on his account.

Mr B phoned Barclays to query what was going on. Barclays set up a new fraud case at 15:28 on 2 August. There was £1,000 remaining from the loan after Mr B's card had been used to withdraw £2,000 in cash at branch and then set up a transfer to an unknown third party of £1,900. Barclays weren't convinced that there was any explanation how Mr B's card could have been compromised and used to make the loan application along with a card reader, as Mr B still had possession of his card. They recouped the funds remaining from the loan in Mr B's account.

Mr B explained he thought he had been in the gym when his card went missing from his locker. The PIN for his locker was the same as that for his debit card.

As Mr B had recently moved house, correspondence went astray and over the next few months he phoned Barclays repeatedly to get the case re-opened and re-considered before Barclays told him they were holding him liable for the loan of £4,900.

Mr B brought his complaint to the ombudsman service.

Our investigator initially had difficulty in obtaining any evidence from Barclays. But on review of this, she agreed with them that there seemed little chance that an unknown third party could have known that Mr B's debit card PIN matched the PIN for his gym locker. Or would have known his date of birth to enable the cash withdrawal and the transfer. So, she believed Barclays could continue to hold Mr B liable for the loan.

However, she noted that Barclays had originally recouped the £1,000 from the loan on 3 August that remained unspent. This money had to be repaid to Mr B if they were holding him liable for the full loan amount.

Our investigator was also concerned at the way Barclays managed Mr B's fraud claim and they agreed to pay him £350 for those issues.

Mr B continued to argue he'd not taken out the loan and asked an ombudsman to consider his complaint.

## **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 reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

It's worth stating that I can choose which weight to place on the different types of evidence I review, including technical evidence, provided by financial institutions along with complainants' persuasive testimony.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The regulations which are relevant to Mr B's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves.

To help me come to a decision, I've reviewed the evidence Barclays provided as well as what Mr B has told us.

I believe Mr B made or authorised the disputed withdrawals and allowed the loan application to be made, using his debit card, which enabled the disputed withdrawals to be made. I say this because:

- Mr B used his debit card and PIN to withdraw £20 from a cash machine at 12:23 on 2 August before he travelled to his gym. This suggests to me that there is a point of compromise despite Barclays saying otherwise.
- Evidence provided by Mr B's gym shows he entered the building at 13:35. Mr B has confirmed that the PIN for his gym locker is the same as his debit card. I don't think it's a massive stretch for any fraudster or thief to suspect this may be the case. But that's only a supposition as I can't be sure that Mr B's card was stolen at this point or whether it may have been stolen earlier after his use at the cash machine.
- However, when Mr B called Barclays to raise the fraud case, he confirmed he still had possession of his debit card. I can see no way how someone could have stolen his card before Mr B got to the gym, and then replaced the card whilst he was at the gym. Firstly, how would they have known he was going to the gym? Nor is it normal for an unknown third party ever to replace a debit card. As the PIN was known and the card in possession of the fraudster – as evidenced by it being used along with a PIN sentry device to apply for the loan – I'd have expected to see further fraud committed with the debit card and it being used for purchases rather than being replaced.
- Barclays' evidence shows Mr B's account being accessed and a loan application for £4,900 being made at 13:49 and 14:26 using online banking along with a card reader accessed by Mr B's debit card and PIN. Mr B didn't generally do his banking that way as he used his mobile banking app. The IP address used bears no resemblance to those that Mr B generally uses when banking.
- At 14:29 a balance enquiry is carried out at a cash machine about 10 miles away from Mr B's gym. There are then two automated machine transactions – withdrawing £2,000 in cash, setting up a new payee and transferring £1,900 to a third party. There is then a further balance enquiry and two attempted cash machine withdrawals

which both fail. This resembles fraudulent behaviour. Barclays has wondered how someone could have known Mr B's date of birth which would be needed to complete the automated transactions, and certainly a random theft of Mr B's debit card and PIN wouldn't have provided that necessary information. Of course, a loan had been obtained in Mr B's name so it seems clear to me that any fraudster would have been aware of Mr B's date of birth – and other personal details – by this stage.

- As Barclays then sent two automated messages to Mr B's phone, he is alerted to what is going on. By 15:28 Barclays had set up a fraud claim following Mr B's call to them. The following day they withdraw the remaining loan funds from Mr B's account. I know Mr B continues to wonder why Barclays automated messaging didn't allow him to confirm he'd not applied for the loan. I'd have thought this was because these were messages providing information about authenticated account transactions rather than transactions where they wished to check who'd carried them out.
- Barclays is not arguing Mr B made the loan application himself as they accept a different device (and one matching previous fraud cases) and mode of access was used. However, they do believe an unknown third party wouldn't have been able to get hold of Mr B's card and PIN without his authorisation. I have to agree that the type of fraud that occurred looks to me as if it could only have been carried out with Mr B's involvement.
- I do wonder why if Mr B was involved in this fraud, he would be as quick off the mark to report the fraud without allowing the third party to make full use of the available loan funds.

On balance, I'm satisfied Mr B allowed the loan application to be made and authorised the withdrawals of £2,000 and £1,900. On that basis Barclays can continue to pursue him for the remainder of the funds. They will, however, need to re-calculate the loan to be £3,900 (plus charges) as they immediately recouped £1,000 from Mr B's account.

Like our investigator, I can see that Barclays struggled to manage Mr B's fraud claim and their internal notes make interesting reading about the number of times they re-opened or closed the complaint without really sorting anything out. Whilst financial institutions are able to decide they need further information from their customers when investigating fraud claims, I believe here they made this all quite difficult for Mr B. I think £350 is fair compensation for this aspect of Mr B's complaint.

### **My final decision**

For the reasons given, my final decision is to instruct Barclays Bank UK PLC to:

- Recalculate the loan taken out Mr B's name on 2 August 2023 to be £3,900 plus interest; and
- Pay Mr B £350 for the trouble caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 11 December 2024.

Sandra Quinn  
**Ombudsman**