

The complaint

Mr M complains Barclays Bank UK PLC won't refund the disputed transactions that took place on his personal current account.

What happened

Mr M says he received funds into his account following a family trip which his family members owed him money for. He's explained between 14 and 15 May 2024, £4,000 was taken from his account by three cashpoint withdrawals which he didn't make or authorise.

Mr M explained this has caused him financial hardship and he's been unable to pay for priority bills. He's also explained this has impacted his business and he's been unable to pay his employees their wages. Mr M says he can prove it wasn't him that was withdrawing the money as he has evidence to show at the time of the transactions he was at work.

Our investigator didn't uphold the complaint. She said she could see the cash machine withdrawals were carried out by chip and pin and she was unable to see a point of compromise because Mr M said he'd lost his card and didn't keep a record of his PIN. So she wasn't convinced a third party could get hold of Mr M's card, guess his PIN correctly and make the withdrawals without his knowledge.

In addition, she said the transactions took place over two days which isn't typical fraudster behaviour. Our investigator also noted there were no further attempts to use the card once it had been cancelled which suggests the person in possession was aware of this. Mr M disagreed, he said he had evidence to show that he was at work during the time of the disputed transactions.

As Mr M didn't agree with our investigator the case was passed to me to consider. On 3 October 2024 I issued a provisional decision, an extract of which is included below.

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint."

The relevant regulations here – the Payment Services Regulations 2017 – say that generally a consumer won't be held liable for any transactions made on their account that they didn't authorise, except in limited circumstances. In this case the most important question I need to answer is whether I think it's more likely than not Mr M, or someone acting on his behalf, carried out the transactions.

On 15 May there was a withdrawal of £2,000 at an Assisted Service Device (ASD) followed by a cash machine withdrawal of £500. And on 16 May there was a withdrawal of £1,500 at an ASD. Mr M says he didn't make or authorise these transactions and would like Barclays to refund them.

The evidence provided by Barclays shows the same card was used to make the last genuine transaction as well as the ones in dispute, and I've not seen any evidence to suggest there is a second card. So I think Mr M held one card for this account and that it was the genuine

card that was used throughout.

Barclays records also show the authentication was chip and pin for each of the withdrawals (for both the cash machine and ASD withdrawals) so I'm satisfied both Mr M's card and PIN were used for each of the three transactions in question.

Mr M says at the time of the disputed transactions his card (which was in his pocket) was lost but he is unsure when and where exactly. However, Mr M has said his last genuine transaction was made on 15 May in the morning prior to work, to a merchant which I'll call "M". And he said the journey between 'M' and his workplace would have taken 50 minutes.

Barclays' records show that the genuine transaction to 'M' was made at 11.26am, so it would seem Mr M may have lost his card around this time.

Mr M provided evidence to show he was at work on 15 May and would have arrived prior to 11.30am as he had already started work by this time. This is confirmed by his workplace reviewing CCTV and providing an email stating this. Mr M also provided a screenshot of the times his work pass was recorded as being used to enter his workplace which showed him as entering at 11.28 on 15 May 2024 (and 11.29 on 16 May 2024). Both pieces of evidence are persuasive, and I have no reason to doubt either. But this on its own doesn't mean he shouldn't be held liable for the disputed transactions, and I'll explain why.

Our investigator asked Mr M how he could have made the genuine transaction to 'M' at 11.26am and been at work two minutes later (by 11.28am) despite, according Mr M, the journey taking 50 minutes. In response to this Mr M said the transaction to 'M' was showing on his statement as being at 11.13am which would give him time to get to work. I've also noted in his previous correspondence to us he said he went to 'M' at about 8am – which is inconsistent with his most recent comments.

I've not seen where it says the transaction was at 11.13am but I am persuaded by the internal records from Barclays which confirms in more detail (compared to statements) the audit history of the transaction.

So I think it's more likely than not the transaction occurred at 11.26am. And it therefore remains unclear how Mr M could have made this transaction and then been at work at the time the evidence suggests he was there.

This casts considerable doubt over the reliability of Mr M's testimony and I think it may be possible it wasn't even Mr M that made this transaction as I can't see how this would have been physically possible. And if I reach this conclusion then I think it's possible Mr M may have given his PIN to someone else to make this transaction as otherwise I'd have expected him to dispute the transaction to 'M' – but he isn't.

It is possible that Mr M is mistaken and that the transaction to M wasn't him at all (although I'd have expected him to raise this as part of his dispute). However, looking at the last genuine transaction prior to the one to M where the card and PIN were most likely used, it seems to be for a cash withdrawal on 5 May. But the likelihood of the PIN being observed, and the card stolen is incredibly remote.

Even if I put the discrepancy to M to one side and accept Mr M made this transaction, I've considered how someone may have been able to observe Mr M's PIN based on what he's said. But I don't think this is the most likely explanation and I'll explain why.

Mr M confirmed he didn't have the PIN written down and that no one knew what the PIN was. He's said he wasn't with anyone at the time of the last genuine transaction mentioned

above. And that he also shielded his PIN - so this would have made it harder for anyone to observe his PIN. So it's difficult to see where the point of compromise may have arisen and it follows that I don't think it's more likely than not someone was able to observe his PIN and take his card to carry out the transaction.

This person would have also needed to take his card without him realising. Taking everything into account I don't think it's the more likely than not explanation that someone observed Mr M's PIN whilst he was at 'M' and then went on to steal the card.

Although the last genuine transaction was only for a relatively low amount (approximately £9), Barclays have said it was authenticated using chip and PIN rather than by contactless which seems unusual given the amount. I don't have any internal records to confirm this transaction was made by chip and PIN but when we asked Mr M about this he didn't dispute that his card and PIN were used so I've worked on the basis that both were used for the payment to 'M'.

Our service asked Mr M why his PIN was used for a relatively low transaction. He said he wanted to check he knew what his PIN was and he could have done this either during the above mentioned transaction or at a cash machine. But having looked at Mr M's statements I can see a cash machine withdrawal was made on 5 May. Although I don't have internal records to confirm his PIN was used, because a cash machine will usually ask for the card holder's PIN I think it's more likely than not Mr M would've needed to use his PIN at that point. So it still remains unclear why only ten days later Mr M wanted to check his PIN again – if this even was Mr M present at 'M'. So again Mr M's explanation for using the PIN for this transaction casts further doubts over the credibility of Mr M's testimony.

I've noted two of the transactions were carried out using an ASD and Barclays has said in order to make these withdrawals the fraudster would have needed to know Mr M's date of birth (in addition to his PIN) to authorise the transaction. Although I've not seen any evidence to confirm Mr M's date of birth was used, I'm aware that an ASD will ask for additional information and I don't think that would have been unusual here given the requested amounts were quite high. So I think it's more likely than not that Mr M's date of birth was provided in order to ensure the withdrawals were successful.

I've considered how a fraudster (who'd also happened to observe Mr M's PIN and take his card without him realising), also knew his date of birth, or was able to somehow guess this and was able to enter this correctly in order to carry out the larger disputed transactions on the ASD.

Although Mr M didn't say this initially, he has now said he also lost his NHS card. Our investigator asked Mr M to confirm what information this card held. In his correspondence to us he said this card contained his name and NHS number with a barcode. So from Mr M's description of the card details he hasn't said this contained his date of birth. And he's also confirmed he didn't lose anything else that day other than the two cards- so again it's hard to see how someone could have known his date of birth to make the ASD transactions.

The first cash machine transaction was for a withdrawal of £500. In my experience this is a fairly high limit and I find it unusual a fraudster would request that much if they were guessing how much the account was allowed to withdraw at any one time, I think it's likely they would have requested a lower amount first. This suggests the person accessing the account knew what the cash limit was.

Barclays' records show that Mr M had actually increased his cash machine withdrawal limit in the days leading up to the disputed transactions so this was a recent change in the account, and it seems that the person using the account was aware of this.

When we asked Mr M why he'd increased his cash withdrawal limit he said this was to save time so he wouldn't have to make as many trips to the cash machine to withdraw the funds from his Barclays personal account. He said he wouldn't transfer the funds back to the account which paid for the holiday (his business account) as he would be taxed. He also said he wanted to take out the funds to have in cash at home and that had he kept the money in his account he may have spent it.

Although I accept to an extent that may be his personal preference, I'm not particularly persuaded by Mr M's response. I say this because his account doesn't seem to be used for his day to day expenditure so I think it's possible he could have left the money in that account. Furthermore, he hasn't said he needed the cash for anything in particular – especially given this would have been a fair amount of cash to have at home.

Mr M has explained he paid for the holiday using his business account but asked his family members to pay what they owed to a personal account he held elsewhere. He says he then transferred this money to his Barclays personal account. Having looked at Barclays' records it seems that the incoming and outgoing payments meant the turnover of Mr M's account was by far the highest it has been over the previous year which seems an unfortunate coincidence.

Our service asked Mr M about these credits he received prior to the disputed transactions. Mr M provided WhatsApp messages dated 6 May showing how much each of his family members needed to pay. Our investigator asked where these payments correlated on his statements.

Mr M provided a screenshot of the credits received into his account (held elsewhere) from his family but these payments didn't directly correlate with the payments listed in the message, and seem to exceed the amount that was stated as being owed in the WhatsApp message.

Mr M says he transferred money from this account he held elsewhere to his Barclays personal account (i.e the account in question), so I've looked at the statements provided by Barclays. But looking at the credits received into his Barclays account, there are four large credits. Again, this seems to exceed the money Mr M received from his family members based on the evidence he provided, and it certainly exceeded the amount Mr M was asking his family members to repay. So it follows that I'm not persuaded by Mr M's testimony around this – but I am happy to look at any evidence or explanation he'd like to provide following my provisional decision.

Like the investigator I find the pattern of behaviour unusual and not what we'd generally see in instances of genuine fraud. Here the person who had Mr M's card didn't maximise the cash withdrawals straight away as they used it over two days requesting varying amounts of cash – rather than trying to drain the account as quickly as possible.

Mr M says he noticed his card was missing on 16 May in the evening and he contacted Barclays to report the fraud and as a result his card was cancelled. Barclays has said once the card was cancelled there were no further attempts to use it. This gives further weight to the fact that the person using the card was aware they'd no longer be able to use the account and were aware the card had been cancelled.

Taking all of the evidence into account I think it's more likely than not that Mr M either made or authorised the transactions that he is disputing by giving his card and PIN to someone else to use. So it follows that I won't be asking Barclays to provide him with a refund. I realise Mr M will be very disappointed with my decision given the impact it's having on him

but there isn't any persuasive evidence that suggests he wasn't involved in some way."

Barclays confirmed they had nothing further to add.

Mr M said he didn't agree with the outcome but had nothing further to submit. He re-iterated he was at work when the fraud took place, and that CCTV would show the person who committed the fraud isn't him and had no connections to him. He also said he has a business account so he wouldn't put this in jeopardy by committing fraud.

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 I reviewed Mr M's complaint, I took into account all of the evidence Mr M provided, in particular his evidence showing he was at work. I won't repeat my findings again here as I addressed this aspect of Mr M's complaint in detail in my provisional decision. As my thoughts remain the same and in the absence of anything new, I don't see any reason to depart from my provisional findings.

I understand Mr M would like CCTV to be reviewed as he says it would show it wasn't him or anyone connected to him. But even if CCTV showed it wasn't Mr M who carried out the transaction, it would still be possible that this person carried out the transaction with Mr M's authority. So, for this reason I don't think reviewing CCTV would make a difference here.

Mr M says he wouldn't want to put his business account into jeopardy by committing fraudulent activity. Whilst I take on board Mr M's comments, taking into account all of the evidence provided by both Mr M and Barclays and for all the reasons I outlined in my provisional decision, I still think it's more likely than not that Mr M either made or authorised the transactions that he is disputing by giving his card and PIN to someone else to use. So it follows that I won't be asking Barclays to provide him with a refund.

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 M to accept or reject my decision before 12 December 2024.

Marie Camenzuli
Ombudsman