

The complaint

Mr N says Barclays Bank PLC (“Barclays”) refuses to refund him for transactions on his account he says he didn’t authorise.

What happened

The facts of this case are well known to both parties and are set out in summary in my provisional decision dated 10 January 2025. So, I won’t repeat them in detail here.

In summary, Mr N says he was abroad in Tenerife when he bought drinks in a bar using his debit card and PIN. However, afterwards he noticed several payments to the bar which he didn’t authorise. He also noticed payments to another venue on the same nights, but says he only visited the one bar.

Mr N says while he did buy drinks at the bar, he didn’t knowingly consent or authorise the number of payments taken and the value of them. Mr N would like Barclays to refund the payments in dispute as he says he was scammed by the bar.

Barclays says the evidence shows all the payments in dispute were made using Mr N’s genuine card and PIN. And as Mr N hadn’t reported his card as lost or stolen, nor is there is persuasive evidence of his PIN being compromised, these transactions must have been completed by Mr N. So, it has refused to refund these as unauthorised.

I considered this case in full in my provisional decision dated 10 January 2025 setting out why I didn’t think this complaint is one which we could uphold. Barclays accepted my provisional decision, but Mr N responded disputing my findings, which I have now considered below in my final 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.

Having re-considered the complaint, and the additional comments provided by Mr N I am not upholding this complaint. I’ll explain why.

I set out my initial findings in full in this complaint in my provisional decision, in which I said:

“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.

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.

Where there’s a dispute about what happened, and the evidence is incomplete or contradictory, I must make my decision on the balance of probabilities – in other words, what

I consider most likely to have happened in light of the available evidence.

I asked Mr N to clarify what his complaint is exactly. He says he didn't authorise the payments in dispute. So, what he's saying here is that he didn't make and consent to each of the transactions he is now querying. This means I must consider how each payment was made and how they were authenticated. But Mr N also says he did make genuine payments to the bar but was tricked into making additional payments of a higher value by the staff operating the card machine. This means he is saying he did authorise the transactions but was tricked into making the volume and amounts charged. I understand the payments were made a while ago and it seems they were made while Mr N was under the influence of alcohol, so it is understandable Mr N doesn't remember exactly what was said and what happened. However, these are two contradictory complaint points.

As a starting point I have considered whether the evidence persuades me the transactions were authorised as per the Payment Service Regulations 2017. Barclays has provided evidence to show all the transactions in dispute were carried out using Mr N's genuine card and PIN. Mr N didn't report his card lost or stolen, and as the investigator explored, it is unlikely someone was able to use his card on many occasions and then return it to him without him noticing. As the card's chip was read, and not its magnetic strip, I am satisfied that Mr N's genuine card was used for all the transactions in dispute.

I've then looked at how the transactions were validated – to show whether Mr N consented to them being made. The transactions were all completed using Mr N's PIN to show he consented to his card being used to make each payment. It is possible that Mr N was seen entering his PIN on one or more occasions here as there were multiple transactions made in the bar, but Mr N hasn't told us that the staff took his card elsewhere to complete any of the payments, so I think it's likely Mr N had his card in his possession the whole time.

Mr N specifically disputes payments made to a second company name, different to the name of the bar he was in. But looking at the evidence provided for these transactions they were also made using his genuine card and PIN. It is possible that this company is affiliated with the bar Mr N was in and were using an additional terminal registered to a different company name. In any event, I am persuaded by the evidence supplied that all these transactions were authorised. So, I won't be asking Barclays to refund them on this basis.

Our investigator partially upheld this complaint on the basis that she felt Barclays should've intervened and contacted Mr N to ensure these transactions were genuine. Our investigator felt that when two transactions were made for £398.40 both at 3.30am on 11 June, at this point Barclays should've contacted Mr N before allowing these to be completed.

In cases involving fraud or scams we would consider whether the bank could've done more to protect the consumer by flagging potential fraudulent payments. However, in this case, Mr N's complaint is not that he was part of a scam which Barclays should've protected him from. And we have no other evidence to suggest this bar was running a scam. Looking at what Mr N has said, his testimony suggests he didn't agree to make all the payments he has been charged. And he disputes the amounts. If a consumer has agreed to a transaction by giving their consent, by entering their PIN for example, they can be held liable for it even if the amount was not the amount they expected to pay. There is also no evidence of any declined payments on his statement or from any receipts.

In cases like these, there is a possible remedy in the form of a chargeback on the basis that the goods or services were not supplied. And this is something we would've expect Barclays to have attempted on Mr N's behalf. Mr N says he was told some of the transactions were declined and the machine showed an error message. However, as mentioned, he has no evidence of any declined receipts or and detailed information about the message displayed

on the card terminal. And without any more persuasive evidence it is likely a chargeback claim would've failed in any event. So, I think even if Barclays had attempted a chargeback for the payments Mr N disputes, it wouldn't have been successful, and no monies would've been returned anyway.

I know this is not the outcome Mr N was hoping for but based on the evidence I've seen I think these transactions were authorised using Mr N's card and PIN, and as I think Mr N had these with him all the time, I think Mr N made these transactions and it is fair for Barclays to hold him responsible for them."

Following my provisional decision Mr N responded saying that he is unsure what legal term to use, but he feels his complaint has been declined because he hasn't used the right language. I'd like to reassure Mr N that I investigated his complaint in full and considered all aspects of his complaint points.

Mr N says he had been drinking in the venue, but they scammed him and took advantage of his situation. He says he shouldn't be held responsible for the transactions as he was misled about the value of the transaction and tricked into making multiple payments under the pretence that earlier ones had been declined. While I have sympathy him, unfortunately, the regulations I must apply here don't include provisions for circumstances like being intoxicated or being tricked into making payments of a higher value. It doesn't necessarily require him to have been aware of the transaction amounts, or to have understood what he was authorising. Strictly speaking, the action of inputting his card and PIN, with the intention of making a payment, is enough to show he authorised and consented to the transactions. So, I won't be able to ask Barclays to refund the transactions on this basis.

I've looked again at whether I think Barclays ought to have done more at the time of the transactions to protect Mr N's account. However, I don't think it should have and I'll explain why in more detail.

Mr N first visited the bar on 10 June 2023, and a payment made here was blocked by Barclays. Later that evening it spoke to Mr N on the phone, and he confirmed that he had genuinely made the payment and he had his card in his possession. So, Barclays removed the block and allowed Mr N to continue spending on his card. The following night Mr N made payments to the same bar using chip & PIN, which he is now disputing and says Barclays should've intervened with.

Usually we would expect large payments, perhaps large international payments, or payments significantly out of character to be flagged. The payments in dispute were individually for a relatively low sums and there was no indication that they could've been fraudulent – especially as he had confirmed genuine payments to the same bar the night before, made in the same way. I do agree there were many payments made within the space of two days, but I don't think the value of these individually should've flagged on Barclays fraud prevention systems. So, I don't think Barclays did anything wrong by not blocking these transactions.

I understand Mr N is unhappy his chargeback requests were rejected, and due to the nature of the transactions that night it is unreasonable to expect him to have any receipts. However, without some evidence of what he was intending on purchasing I think it's difficult for Barclays to pursue a complaint that he didn't receive the goods and services he was charged for. So, I won't be able to ask Barclays to refund him on this basis either.

I appreciate Mr N's position and I've listened to what he said about the bar taking advantage of him. But unfortunately, under the regulations which apply here the evidence shows he authorised the transactions – even though he wasn't aware of the value or believed they

were being declined. And based on the evidence I don't think it would be fair to hold Barclays responsible for not blocking the payments.

My final decision

For the reasons outlined above, I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 27 February 2025.

Sienna Mahboobani
Ombudsman