

## **complaint**

Mr C has complained Barclays Bank UK PLC refuse to refund him for two sets of disputed transactions from his account in 2016. The first set are for cash withdrawals at casino booths and the second set are online gambling transactions.

## **background**

During a trip to the US in 2016, Mr C realised there'd been lots of transactions on his account which he didn't think he'd made. Some of these had happened whilst he'd been in hospital there. He told Barclays these had been done at kiosks in casinos and he felt he'd been scammed.

These kiosks allowed people to withdraw cash by production of a card which is then checked. They carry out a *"review of the cardholder's government issued identification and obtaining the cardholder's signature"*. He was often told there was a systems issue and to come back when money was available. When he did so he had to carry out another transaction. He felt although he often received cash, duplicate transactions were also taking place. He was claiming back £64,732.92 covering 28 different transactions. These had taken place at eight different casinos between 21 September and 16 November 2016 (although he first raised his complaint in October 2016). Mr C believed there was plenty of evidence to show this company, and their employees, was involved in a recognised scam.

Barclays obtained information from the company who operated these kiosks (who I'll call E). They believed all the transactions had been properly authorised so didn't refund any of the money to Mr C.

When Mr C returned to the UK he raised a further complaint with Barclays for 70 online gambling transactions totalling £18,862.61 undertaken with a different debit card. Barclays raised chargebacks with the companies involved. As no responses were received from some companies, they refunded £1,892.61 to Mr C on 9 March 2017. For all the remaining transactions which had all been made to B (a specific gambling company), Barclays believed these were authorised.

Mr C had first raised his complaint with Barclays in October 2016. He only received a final response in March 2017. Barclays apologised for the delay in dealing with the issues Mr C had raised and offered him £150 in apology.

Mr C felt this was derisory and didn't take into account all that had happened. He'd lost more than £80,000 and had had difficulty in managing financially during the period of the dispute. He brought his complaint to the ombudsman service.

Our adjudicator reviewed the evidence. This included information from both E and B about how the transactions were authorised. She'd also raised some questions with Mr C which he was unable to answer. For example she couldn't understand why Mr C continued to use E's facilities after October 2016 when he already thought he was being scammed. In the end she told Mr C she believed he'd authorised the transactions so couldn't ask Barclays to refund him.

Mr C disagreed with this outcome. He asked an ombudsman to review his complaint.

I completed a provisional decision on 10 January 2020. I also believed Mr C had authorised the disputed transactions. I did ask Barclays to increase their compensation to £350 in total.

Barclays disputed this finding as they didn't believe the results of their investigation would have had an impact on the outcome of the complaint.

I received nothing from Mr C.

I now have all I need to complete my final decision.

### **my findings**

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 not seen anything which has made me reach a different conclusion than I did when writing the provisional decision. The following is similar to my provisional decision for that reason.

The Payment Services Regulations primarily require banks to refund customers if they didn't make or authorise payments themselves. Certain other circumstances do apply – but nothing that's had an impact on the decision I'm making here. So when we look at whether a bank has acted fairly in rejecting someone's fraud complaint, one of the things we consider is whether the customer made the transactions themselves or allowed them to be made. If they did, then we generally wouldn't ask the bank to refund them.

To help me decide what happened, I've looked at the evidence of the transactions themselves, as well as what all the involved parties, including E and B, as well as Barclays and Mr C have told us.

I've looked at both sets of disputed transactions and I'll deal with these in turn.

#### *disputed transactions undertaken at E kiosks overseas*

Mr C has disputed 28 transactions totalling £64,732.92 carried out at E's kiosks in eight casinos. These were carried out between 21 September and 16 November 2016. Mr C was in the US at the time and there's no dispute he visited those casinos. During the period of Mr C's stay he undertook more than 65 transactions at E's kiosks. He withdrew a significant amount of money: presumably to use in the casinos.

I've considered Mr C's evidence which includes confirming his partner was with him for part of this time, then returning home whilst disputed transactions continued after then. He's also confirmed he was never without his card, including the time he was in hospital.

He's given us evidence from a representative of the hospital confirming Mr C was a patient there from 5 to 12 October 2016. I've also seen evidence of two card transactions of \$3,000 apiece made on 10 and 11 October to the hospital. This backs up Mr C's evidence he retained possession of his Barclays debit card. I can also see there were other retail transactions made using this card, which Mr C has not disputed. These took place over the period Mr C was in hospital. Some of these were at the casino – but not at the kiosk – where the disputed transactions also took place.

We got copies of receipts from E showing Mr C's signature for all the disputed transactions but one. As E no longer held this evidence, they refunded £2,813 to Mr C's account in

August 2017. This related to a transaction carried out at 22:23 on 9 October 2016. This was carried out at the same place where other retail transactions were also processed which Mr C had not disputed.

I can also see E state “*government issued identification*” was required for checking as money was handed over. This matches what Mr C has told us that he used his passport as ID. Mr C has said he was also required to provide his fingerprint as additional ID. E confirmed this could be the case. It was up to the casino what procedures they followed. This was not a requirement placed on them by E for all transactions. The fingerprint ID was then only present on the receipts given to the customer.

I can't say for sure exactly what was happening. Or how these transactions were taking place when Mr C was in hospital? He's taken a robust view that he couldn't have been wandering around using his card with the condition he had. However I'm not so sure this is the case based on the other evidence I've seen.

Mr C has told us E and their employees were operating a scam. This would have involved more than 30 different employees across a range of different establishments. I think overall this is unlikely.

Mr C first raised the dispute with Barclays in October 2016. It's clear that after this he continued to frequent the same casinos and use E's kiosks there. Mr C has never explained why – if he felt he was being scammed for such a substantial amount of money – he'd continue to do this.

He has said that he thinks he was debited for transactions which were initially declined. It's true some of the transactions at E's kiosks were declined. But I don't think he was debited for these. What seems to have happened is after a decline, Mr C used his mobile phone to transfer money from his account ending in 2347 to his current account ending 4821. Over the time Mr C was in the US, he made more than 15 transactions on 15 different days, transferring generally £5,000 at a time or more as he required for his time overseas. He has never disputed doing these.

He did tell us that he wasn't able to use his mobile phone whilst he was in the US. He didn't have the correct charger. If that were actually the case I'd have expected Mr C to have disputed the transfers between accounts. He's not done that.

Based on the evidence I agree with the conclusion our adjudicator came to. Mr C authorised these 27 disputed transactions (one being refunded by E) as shown by the signature on the receipts for the transactions he disputed.

At the time our adjudicator was discussing these transactions with Mr C, he said he was intending to widen his dispute to include other transactions. We confirmed he needed to raise these with Barclays first. This discussion was in August 2017. To date Mr C has not disputed any further transactions with Barclays.

#### *disputed online gambling transactions*

Mr C disputed 70 online gambling transactions carried out between 30 November and 19 December 2016. He accepted he used his card to gamble online but said this didn't match his normal pattern.

To resolve this Barclays raised disputes with the companies involved. They didn't get any response from a number of companies where a small amount of gambling had taken place. On that basis they refunded £1,892.61 to Mr C. This credited his account on 9 March 2017.

One company, B, confirmed Mr C held an account with them. Although £18,800 had been spent with them, they pointed out Mr C had carried out a number of withdrawals from his B account. These amounted to £10,150. Those credits hadn't been mentioned by Mr C in his original evidence.

B also explained they have additional security around their customer's accounts. For anyone to have used Mr C's account, they'd have needed to know his username and password along with his card details. None of this is impossible of course, but as gambling credits are always made back to the same account – as happened here – there's no gain in anyone else using Mr C's account to gamble.

I can see from Mr C's Barclays current account statements that from 21 November to 15 December he actually got back more than £13,000 from B. I can also see that contrary to Mr C's statements he did regularly gamble online with B (as well as another company with a similar name). I accept his gambling in March to May 2016, for example, was for much lower amounts. I'm also aware that Mr C had access to money allowing him to gamble larger amounts if he wished to.

Overall I believe all the evidence shows Mr C authorised these transactions. I won't be asking Barclays to refund him.

#### *service aspects of the complaint*

There's no dispute Barclays took some time to respond to Mr C. They offered him £150 compensation for this. On the basis of the time they took I believe that's fair.

Mr C pointed out that Barclays confirmed to him they'd undertaken a full investigation into his disputed transactions. He didn't believe this was the case. He was given additional weight to this view when our adjudicator's investigation showed up a transaction which E admitted they could not show any relevant authorisation for. E refunded this off its own back. Mr C couldn't understand why Barclays' investigation hadn't shown this.

I can see from Barclays' own fraud notes that they certainly got in touch with E to talk about their procedures and processes. Most of which they then repeated to Mr C. But they didn't ask E for the evidence of the actual transactions. They know we'd expect them to carry out a proper investigation. I can't see they did this. I have added £200 to the compensation.

I would have asked Barclays to pay more but even if they had got this evidence – based on the fact we did and what we found – I don't think it would have made much real difference to the overall outcome. However I can see that Mr C felt Barclays were misleading him.

Barclays has questioned why – if I felt this further evidence would have made little difference to the outcome of the complaint – I'm asking them to pay Mr C a further £200. They're right that I don't think the outcome would be any different but Mr C may never have brought the complaint to us at all if they'd been able to evidence what investigation they'd done earlier. This has undoubtedly had an impact on him whilst waiting for us to come to a conclusion.

I apologise for the delays our service has had in being able to consider his complaint.

**my final decision**

For the reasons I've given, my final decision is to instruct Barclays Bank UK PLC to pay Mr C £350 in compensation. I note Barclays refunded £1,892.61 to Mr C on 9 March 2017.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 13 March 2020.

Sandra Quinn  
**ombudsman**