

complaint

Mr O is unhappy Barclays Bank UK PLC (“Barclays”) is holding him liable for lending he says was taken out fraudulently in his name.

background

In August 2018 Mr O says he received a call from a scammer pretending to be Barclays. He says they told him his account had been compromised and someone was using it to make purchases. He says the scammers told him they could block his account, open a new one for him and transfer his money in order to protect it.

The details of what happened next aren't entirely clear, but Mr O believes the scammers accessed his online banking account and mobile phone banking app and made numerous transfers to the new account as well as increasing his overdraft to over £3,000 and taking out a loan for £7,000 without his consent.

Mr O says after the scammers made two transfers of £950.67 further attempts were blocked. So they asked Mr O to transfer funds to the account of someone he trusted so the funds could be moved to the “safe account” from there. He says he transferred money to his wife's account under the scammers' instruction where they accessed this money and transferred it to the same third party account the other transfers were paid to.

Mr O has said the following transactions were involved in the scam:

Date	Time	Transaction type	Amount
31 August 2018	19:50	Overdraft increase via online banking	From £1,000 to £3,420
31 August 2018	20:14	Transfer to third party account via Barclays mobile banking (“BMB”)	£950.67
31 August 2018	20:27	Transfer to third party account via BMB	£950.67
31 August 2018	20:28	Attempted transfer to third party account via BMB	£950.67 attempted
31 August 2018	20:28	Attempted transfer to third party account via BMB	£950.67 attempted
31 August 2018	20:29	Loan applied for via online banking	£7,000
31 August 2018	20:35	Mr O confirmed he made this payment via online banking	£3,221.24
31 August 2018	20:38	Mr O confirmed he made this payment via BMB	£0.63

Following the transactions it's not entirely clear what Mr O understood had happened with the new account he'd been told was set up for him. But it appears his existing account remained in operation and existing standing orders and direct debits were crediting and debiting the account.

Mr O has said he contacted Barclays shortly after the transactions occurred to report fraud had taken place. He's also said during the scam he contacted Barclays to confirm what had happened and was told his account would be blocked and new security information would be sent to him.

But according to Barclays' records Mr O reported the above transactions had been carried out fraudulently in branch on 12 October 2018 – over a month later. According to its records it was at this point his accounts were blocked and his security information was reset. Mr O has said he made a complaint in branch after he received a letter demanding repayment of the loan.

Barclays investigated the matter but felt it was more likely Mr O had carried out the transactions himself. It said:

- Mr O had said he didn't provide his online banking details to the scammer and the person who carried out the transactions had his correct log in details
- The device used to carry out the transfers of £950.67 – which Mr O had said was carried out by scammers – was a device he'd previously registered to access his Barclays Mobile Banking ("BMB") app
- The loan was applied for during the same online banking session the transfer of £3,221.24 was made to Mr O's wife. As Mr O has confirmed he made this transfer, it follows he must've applied for the loan
- Apart from Mr O's testimony there was no evidence of any third party compromise on the account

Mr O didn't accept this and complained to Barclays, but it maintained there wasn't sufficient evidence a scam had taken place. Mr O brought the complaint to our service but our investigator didn't uphold the complaint. They felt based on the evidence they'd seen Mr O likely authorised the transactions he was disputing.

Mr O didn't accept this. He maintained there was no evidence he'd taken the loan out himself. As he didn't accept the investigator's findings the complaint has been passed to me to make a 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.

The regulations relevant to this complaint are the Payment Services Regulations 2017 (PSR's). I won't quote them directly here but, broadly speaking they set out when a customer is responsible for the transactions on their account – typically when they've been authorised by the consumer in some way. And where there's a dispute about whether a customer authorised a transaction there needs to be evidence to support the bank's case if it wishes to hold the customer liable.

Barclays has said it doesn't feel there is sufficient evidence Mr O has been the victim of a scam in this case and there's no evidence of any third party compromise on his account. As such, it feels he authorised the transactions listed above and should be liable for them.

I think there are some details missing from Mr O's testimony and some points are a little unclear. But I can see we've been in touch with Mr O for clarification around the complaint on several occasions so I'm satisfied he has had the opportunity to provide any additional detail he feels is relevant to his complaint. And ultimately, I think the evidence I have seen from Barclays was enough for it to reasonably reach the conclusion Mr O hasn't been the victim of a scam. Overall, I think it's reasonable Mr O should be liable for the transactions and, when saying that, I've taken the following into account:

- Mr O has said scammers accessed his accounts and transferred two payments of £950.67 to a third party account. These transactions were carried out using his mobile banking app which was accessed using Mr O's personalized security information. And, the evidence suggests they were carried out on a device Mr O registered to his banking app in 2017. Mr O has insisted he didn't provide this security information to anyone and I've not seen any plausible explanation as to how scammers – who Mr O says contacted him by phone – would've accessed one of his old personal devices. Given all of this I think it's likely he carried out the transactions.
- Mr O has confirmed he transferred £3,221.24 to his wife during the course of the scam. During the same online banking session this transfer was made, a loan of £7,000 was applied for. I've not seen any plausible explanation as to how a third party could've accessed Mr O's online banking during a session he's confirmed was his and applied for a loan without his knowledge. So I think it's likely he applied for the loan.
- The loan proceeds were sent to Mr O's bank account and were never moved out. It's unclear why a scammer who supposedly had access to Mr O's current account would've applied for a loan and not removed the money when it arrived in the account. We've also asked Mr O why this deposit didn't prompt him to contact Barclays or make any further enquiries about what was happening with his account and he's said he didn't notice the money had entered his account. But I think it's unlikely a reasonable person wouldn't have noticed such a large deposit to their account.
- Before Mr O says the scammers contacted him his account balance was around zero. During the course of the scam over £4,000 was transferred out of his account. It's not clear why Mr O moved this amount out of the account given he ought to have been reasonably been aware he didn't have this amount of money in his account before the scam and therefore it wasn't his. And if he thought he needed to move all of the money that had been borrowed in his name – the overdraft and the loan – it's not clear why he only would've moved some of it and left around £3,000 in the account.
- Mr O has said he was told his account was compromised but he appears to have continued making payments into the account and allowing direct debits for his mortgage to be paid from it. And whilst he's said he mostly stopped using the account, I can see this isn't the case from his statements. It's difficult to understand why Mr O continued to use account he says he thought was compromised. It's also

difficult to understand why, if he thought a new account had been opened, he didn't contact Barclays to get access to this new account and the money he'd transferred to it. And if it's the case that he understood the money wasn't his, because it had been borrowed fraudulently, again, it's unclear why he didn't move all of it.

Overall, I don't think there is sufficient evidence that scammers accessed Mr O's account. And because I don't feel I've seen plausible explanations for some of the things he's said happened, I'm satisfied the transactions were more likely than not carried out by Mr O. So I'm satisfied he should be liable for them.

I'm surprised to see Barclays has no record of contacting the receiving bank when the fraud was reported to it. And whilst it said this may have happened in the background, given there's no record of it, it seems more likely than not it didn't. I would've expected Barclays to have contacted the beneficiary immediately when fraud was reported to it to see if the funds remained and could be returned. That said, I don't think the fact this didn't happen in this case has caused a loss to Mr O as I don't think I've seen persuasive evidence he has been a victim of a scam.

Mr O has raised a transfer of £3,221.24 to his wife's account as part of this complaint. He's confirmed this transaction was carried out by him but he's said he did it under the instruction of the scammer and they later stole the funds from his wife account so he feels Barclays should also be liable for it. But Mr O made a bank transfer and the person he intended to receive the money received the money. So there's no complaint regarding this transfer for Barclays to answer. If the recipient/his wife feels they have been the victim of a scam, this is something they would need to raise with their own bank.

I think it's fair Barclays has held Mr O liable for the transactions including the repayment of the loan. Mr O has confirmed he's experiencing financial difficulty and is struggling to meet the contractual repayments due. Moving forwards Mr O will need to engage with Barclays about the repayments and his circumstances and I'd expect Barclays to treat him positively and sympathetically in reaching a suitable repayment arrangement.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 4 April 2021.

Faye Brownhill
ombudsman