

complaint

Mr A complains about the actions of Barclays Bank Plc in relation to the closure of his account and information recorded by it in respect of Mr A's use of the account.

Mr A is represented by his father in referring his complaint.

background

Mr A's complaint arises following disputed activity taking place on his account and two savings accounts being opened with the bank, he says without his knowledge.

Barclays closed all three accounts and registered information about the matter with fraud prevention agencies.

Mr A says that he lost the original card for the account around the end of January 2014 and he received a replacement card. The replacement card was issued to Mr A on 5 February 2014 but this was also subsequently lost. However, he did not notice that the card was missing until he received a text message from the bank about large transactions that were being made to and from his account. Mr A says he contacted Barclays immediately to notify it that his card was missing, but Barclays says that it has no record of Mr A contacting the bank to report the loss of the card.

The disputed activity on Mr A's account commenced on 24 February 2014 when a payment was deposited into the account and this was followed by a withdrawal from a cash machine and an attempted online bill payment. The withdrawal was made using the card and personal identification number ("PIN") and the online payment was attempted using the facilities provided for Mr A's account by Barclays, again with access to the card and PIN.

Mr A says that he previously changed the PIN for his account when the notification was originally received from Barclays to numbers from his date of birth. Barclays has said that the PIN was originally issued on 28 August 2013 and changed on 3 September 2013. The bank says that a new PIN was not issued for the replacement card in February 2014 and there was no subsequent reminder issued for the existing PIN.

Our adjudicator was satisfied that the card used to carry out the disputed transactions was the one issued to Mr A by Barclays. And he could not identify a plausible explanation of how it would have been possible for a third party, who had found or stolen the card for Mr A's account, to obtain the details of the PIN to enable the disputed transactions to be carried out. The account was last used by Mr A to make a withdrawal in December 2013.

Also, Barclays was notified that the payment received into Mr A's account was fraudulent by the bank from which the payment was received. Barclays then removed the remaining money from the payment made to Mr A's account and blocked the account.

As regards to the savings accounts, Mr A says he received a letter from Barclays on 23 February 2014 about one of them and he contacted the bank because he had not applied for such an account. Mr A says he was told that the account would be closed. Barclays said that two applications were made online for the savings accounts and the bank says that letters for both accounts were sent to him at his home address.

It seemed reasonable to the adjudicator that the replacement card would have to have been lost or stolen at some point after it was issued on 5 February 2014 and before the fraudulent payment was deposited at 1.11pm on 24 February 2014 and the withdrawal made at 2.04pm on the same day. Two further fraudulent payments were deposited into one of the newly opened savings accounts at 2.25pm and 2.32pm, also on 24 February 2014

The deposits appeared to have been made to allow the missing card to be used carry out and authorise the disputed transactions. And for such a scenario to be possible, the fraudster would have to have been confident that the card had not been reported lost or stolen earlier by the customer before the payments were deposited and the first disputed transactions attempted with the card.

The adjudicator did not conclude that activity on the accounts was unauthorised. He was not persuaded that there was sufficient evidence to show that the activity on the account could have taken place without Mr A's knowledge and, by extension, his consent. Therefore, he did not recommend that Barclays should remove the information that had been registered with fraud prevention agencies. Also, he did not conclude that the bank was obligated to provide a reason for closing the account or to re-open accounts it has decided to close. And he noted that Barclays had offered to pay Mr A £50 in recognition of its delay in responding to Mr A's complaint – which has now been settled directly.

Mr A's father has asked that the complaint be reviewed by an ombudsman. He maintains that Mr A has no knowledge of, nor had involvement in, any of the activities on the account that have given rise to the account. A full explanation of how Mr A has been an innocent victim of fraud cannot be provided but Mr A's father has commented that the PIN may have been guessed, Mr A could not have carried out the activity himself, and he was not aware that the card was missing until the bank contacted him – and he did call the bank himself. Mr A's father would still like to understand the reasons for the bank's actions

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Having reviewed the evidence and arguments presented, I agree with the findings and conclusions of the adjudicator.

Where evidence is incomplete, inconclusive, or contradictory, I have to reach a decision on the balance of probabilities; that is, what I consider is most likely to have happened, given the evidence that is available and the wider surrounding circumstances. I have considered carefully what Mr A's father has said about how Mr A could not, and would not, have been even aware of the activity on the account that has led to information being recorded by the bank with fraud prevention activities. But I cannot identify with certainty what happened and therefore have to make my decision based, as I say, in what seems to me to be more likely than not.

The facts of what has gone, insofar as they were set out by the adjudicator, are not disputed. I note that there was some correspondence about whether, and when, Mr A contacted the bank but in the circumstances of this matter, it is not material that Mr A can show that he did phone the bank, given that this happened after the bank was advised of fraud on the account by another bank and blocked it.

Therefore, I do not need to say any more about the facts of what has gone on here. The issue for me to consider is that, given the known facts, it cannot be said how Mr A was an innocent victim of fraud.

As the adjudicator has said, Barclays is entitled to record information with fraud prevention agencies, if, on balance, the transactions can be said to have taken place with the knowledge, and therefore consent, of Mr A – even if he was not directly involved. And taking into account what is known about the activity on the account and how it happened, and the failure of Mr A to explain how the activity could have taken place without his knowledge, I do not consider that I can fairly and reasonably say that the bank should be required to remove the information it recorded with fraud prevention agencies.

It is also the case that Barclays is not required to provide a reason to a customer as to why it is closing their account or to provide banking facilities where it has made a legitimate commercial judgement not to do so.

my final decision

In light of all I have said, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr A to accept or reject my decision before 2 December 2014.

Ray Neighbour
ombudsman