

complaint

Mr R complains that he's been the victim of fraud and that Barclays Bank Plc is holding him responsible for some transactions he says he didn't make. He also complains that the bank has closed his account.

background

Mr R says in 2016 he opened several accounts with online betting companies and he used these accounts for a short time only. He says he didn't gamble very much and stopped using the accounts in March 2016.

In July 2016, Mr R says Barclays notified him that he no longer had sufficient funds in his account to cover his ordinary payments. He says he logged into his account that evening and saw a large number of transactions that he hadn't authorised and that he knew nothing about – so he reported this to the bank.

Mr R says detailed analysis of his bank statements shows that £23,295 had been paid to one of his online betting accounts and a further £2,802 had been sent to another online gambling account. Mr R says there were 359 transactions, paid over several months to the two third parties – and he says he didn't authorise them.

He complains that Barclays didn't undertake chargebacks to recover these payments and it's failed to investigate this fraudulent activity correctly. He says one of the gambling companies provided the bank with evidence of the IP addresses used to make the transactions – but Mr R says he doesn't have the mobile phone that's associated with these – he changed his phone in March 2016 – and he cleared his old phone of all his personal data.

Mr R also complains that Barclays agreed and approved two bank loans – neither of which he applied for. He says the two loans, one for £14,000 and the other for just under £11,000 were paid into his bank account but his account was compromised. And he denies all liability for the outstanding balances on the loans.

Mr R says Barclays was negligent and that it should be liable for the losses associated with the two loans.

Barclays rejected Mr R's complaint. It says it wasn't able to successfully undertake chargebacks because the online merchants said that the payments were genuine. The merchants explained that the level of personal information needed to complete the transactions could only have come from Mr R. And Barclays said this was information that wouldn't have been held with his card.

Barclays also says that the gambling accounts contained a number of 'winnings' – and credits were made back to the bank account by the online gambling companies. But these funds were then used to finance further gambling activity and it didn't think this was the typical behaviour of a fraudster. And it says that additional transfers into the bank account from other accounts suggest that the account holder was aware of the account activity. So it is holding Mr R liable for the online gambling transactions.

Barclays also says it's holding Mr R liable for the two loans taken out in his name. The two loans totalling nearly £25,000 were taken out in May and June 2016. And it says they were applied through Barclays Mobile Banking using the device that Mr R had registered for mobile banking. It explained that after both loan applications it wrote to Mr R at his home address to confirm details of the loan and it says he would've queried one or both loans if he hadn't known about them.

The bank also says that a large amount of the loan proceeds were transferred to other accounts, both with Barclays and at another bank, and that these accounts were held in Mr R's name. £4,000 was sent to Mr R's other Barclays account and just over £5,000 was sent to another account he holds at another bank. These transfers took place shortly after the loans had been approved.

Barclays did acknowledge that it hadn't given Mr R the service it should've. It says it took too long to complete its fraud investigations and it sent him a cheque for £200 in recognition of this.

Our adjudicator looked at this complaint and she said she didn't think it should be upheld. She explained that the evidence showed that both of the disputed loans had been taken out through the Barclays mobile banking app on Mr R's mobile phone. And she explained why she thought that Mr R's testimony about getting a new phone didn't make a difference.

She also said that she wasn't persuaded that Mr R's bank card had been compromised for both the online and telephone betting transactions. And she explained that the activity she'd seen wasn't indicative of the usual behaviour of a fraudster.

She said she thought it was reasonable for Barclays to hold Mr R liable for the loans and transactions that he's disputing.

Mr R disagreed and asked for an Ombudsman to review his complaint again. He says he thinks all his devices have been compromised by *malware* and he maintains the he didn't take out the loans and he didn't authorise the transactions with the online gambling companies.

Mr R also says that the loan confirmation letters weren't sent by post – they were emailed – and the fraudster would've been able to intercept them to ensure they were not seen by him. He says the fraudster used the loan proceeds to make payments into his other accounts *"to keep the banks from notifying me that I had exceeded my credit or overdraft limits"*.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I hope that Mr R won't take it as a discourtesy that I've condensed his complaint in the way that I have. Ours is an informal dispute resolution service, and I've concentrated on what I consider to be the crux of the complaint. Our rules allow me to do that. Mr R should note, however, that although I may not address each individual point that he's raised, I have given careful consideration to *all* of his submissions before arriving at my decision.

I understand how strongly Mr R feels about this matter because the disputed transactions represent a significant amount of money to him. For the purposes of this decision, I don't need to determine who actually made the disputed transactions. Rather, my role is to determine whether Barclays is entitled to hold Mr R responsible for them. Where there is a dispute about what happened, I've based my decision on what I consider most likely to have happened, in the light of the available evidence.

Having considered the evidence, I'm afraid I have to tell Mr R that I think the adjudicator has reached entirely the right outcome here. To be honest, there is very little I can add to what she's already said and I think the adjudicator has set out the position very clearly and in great detail.

the disputed loans

Barclays says Mr R applied for two loans using his mobile banking app. The loans were taken out in May and June 2016. Mr R says he didn't take out the loans, so he shouldn't be liable for the debt.

But the loans were taken out using Mr R's mobile banking app – so Mr R or someone known to him would've needed to securely sign in to the app in order to access the banking functionality. I've considered that Mr R told us he changed his phone earlier in the year and "wiped" his old phone. But if it were someone unknown to him and they applied for the loans without his consent, I would have to conclude that Mr R was *grossly negligent* with his account details and online security.

I say this because if Mr R had wiped his phone when he exchanged it for a new one, someone applying for a loan in his name would've needed to set up Barclays Mobile Banking again. And to do this they would've needed his debit card and PIN to register for this service before they could apply for any loans in his name.

Furthermore, although Mr R says a fraudster would've likely intercepted the emails containing his loan confirmation details so that he didn't know about the fraudulent loans, I have to tell Mr R that both of these documents were sent by post. I've seen copies of them and they're both addressed correctly. So I think it's unlikely that Mr R received neither of these loan confirmation letters. And if he hadn't agreed to take out the loans, then upon receiving the loan confirmation letters from Barclays I would've expected him to query them immediately.

Finally, Barclays says that some of the money from the loans was paid into two other bank accounts held by Mr R. One account was held with Barclays, the other with another bank. Mr R suggests that the fraudster was trying to confuse matters by keeping his accounts in credit just enough to ensure that neither bank wrote to him about his account balances. But I don't think this is likely. In my experience, fraudsters do not care about their victims; they simply seek to extract their ill-gotten gains as quickly and directly as possible.

Taking everything into account, I just don't think the evidence supports Mr R's claim that the loans were taken out fraudulently. I think it's more likely that Mr R either:

- applied for the two loans himself;

- allowed someone to use the debit card and PIN together with the mobile banking passcodes; or
- didn't keep his mobile banking log in details, passcode, debit card and PIN safe, as required by the account's terms and conditions. This might have happened if he was the victim of a scam and was persuaded to give secure details to a fraudster.

Even so, in any of these situations, Mr R would still be liable for the disputed transactions so it follows that I don't uphold this complaint against Barclays.

the disputed betting transactions

Mr R says he opened a number of online betting accounts in 2016 and used an organisation that *"helps you with the betting sites and gives you all the information you need to be successful"*. But he says due to the pressures of work he never had time to use the sites and make use of the free money – so he never used the accounts. But later on he told us he had used the sites – for a short period of time – before deciding he no longer wanted to use these accounts.

He says he wasn't using his banking mobile app at this time and because of this he didn't notice the disputed transactions until July 2016. He says Barclays didn't attempt to do chargebacks on the transactions and if they had done so, the bank would've received all the money back that it now holds him liable for.

Chargeback is a process under card scheme operating rules which allows a card issuer – in this case Barclays – to reclaim debit card payments made by its customer from the bank of the person who received the payment.

We generally consider that, as a matter of good practice, the card issuer should attempt a chargeback if the card holder has challenged a transaction *and* - taking into account relevant card scheme rules – it looks as if there's a fair chance that a chargeback request might succeed. But just because the customer makes a request it doesn't mean that the chargeback will necessarily succeed. This is because the rules lay down strict conditions which must be satisfied for a chargeback claim to succeed.

Barclays told us that Mr R is disputing 337 online and telephone gambling transactions that took place over several months. And it says it did contact the gambling merchants to validate the payments that Mr R was disputing.

Barclays says that the third party merchants confirmed that the payments were genuine and were authorised by Mr R. They were linked to gambling accounts in his name and were registered with Mr R's contact information. So I don't think Barclays did anything wrong when it held Mr R liable for these transactions and it would be unfair for me to ask it to reimburse the money.

Mr R also complained that Barclays closed his bank account and he wants it re-opening. But a bank can decide who it wishes to do business with, and this is a commercial judgement on its part – so it's not something that this service usually gets involved with. The terms and conditions set out clearly what either party needs to do if it wishes to end its banking relationship and close the account. So I have to tell Mr R that I don't think the bank did anything wrong when it decided to close his bank account.

I know Mr R will be disappointed with the outcome of this complaint, but I hope he understands why I can't uphold it.

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 R to accept or reject my decision before 20 October 2017.

Andrew Macnamara
ombudsman