

## **The complaint**

Mr D complains that Barclays Bank UK PLC won't refund a number of payments made out of his account, which he says he didn't make.

## **What happened**

Mr D was sent to prison in July 2015. He says his now ex-wife used his Barclays bank account while he was in prison, but he didn't give her permission to do so. So he's disputing a number of payments made out of his account between July 2015 and October 2021, when he was released.

Barclays investigated but said there were also a number of payments into Mr D's account from his ex-wife during this time, and that a number of the disputed payments were for bills or cash withdrawals, so it appeared there had been some financial arrangement between Mr D and his ex-wife. It also said it couldn't see how Mr D's ex-wife would have known the PIN for his card. So it didn't agree to refund the disputed payments. Barclays did offer to pay Mr D £250 for the delays in its investigation of his complaint through. But Mr D wasn't satisfied with Barclays' response, so referred his complaint to our service.

One of our investigators looked at the complaint. They thought it was likely Mr D had given authority for his ex-wife to use his account, at least in some way, while he was in prison. And they thought at least some of the disputed payments appeared to be made to meet Mr D's financial commitments or manage his finances. So they didn't think Barclays should have to refund the payments Mr D had disputed. And they thought the compensation Barclays had paid Mr D was fair. Mr D didn't agree with our investigator, so the complaint has been passed to me to decide.

## **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 case.

Having done so, I agree with our investigator that it's likely Mr D had given some kind of authority for his ex-wife to use his account. And so I don't think it would be fair to require Barclays to refund the disputed payments. I'll explain why below.

Generally speaking, a business can hold a customer liable for disputed transactions made on their account if the evidence suggests it's more likely than not that the customer made the payments themselves, or authorised someone else to make them.

**My final decision**  
It's not in dispute that Mr D didn't make the payments himself, as he was in prison during the time when the payments were made. But it is still possible for him to have authorised someone else to make the payments.

For the reasons explained above, I don't uphold this complaint.

Deciding whether a customer has authorised payments is a two-part test. Firstly the payments must be authenticated, and secondly the customer must have consented to the payments being made. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject this decision before 10 October 2023.

Barclays has said the disputed payments were made using Mr D's genuine card and PIN. And it's also not in dispute that the payments were likely made by Mr D's ex-wife, who had access to his genuine card. So the payments were correctly authenticated.

#### **Ombudsman**

For consent, Mr D has said he never agreed that his ex-wife could use his account. But he's also explained that his ex-wife was renting out space in a commercial property he owned and that they'd agreed that income she received from doing this would be paid into his account to cover outgoing payments. He's said his ex-wife was keeping his account afloat and that he was expecting her to report the contents of his account statements to him.

There are a number of payments of varying amounts going into Mr D's account from his ex-wife during the time the disputed payments were made, and most of the disputed payments are for what appear to be day-to-day expenses.

So I think the evidence suggests there was some sort of financial arrangement between Mr D and his ex-wife and that, as part of this, Mr D's ex-wife was granted access to and authority over his account.

In order to remove his apparent authority, Mr D would have needed to do something to ensure his ex-wife didn't have access to and couldn't make payments on his account anymore. And I accept that when Mr D realised there were more payments on his account than he'd expected, he took steps to contact Barclays and report this. But he doesn't appear to have done this until after the disputed payments had been made from his account.

So, based on the evidence I have, I think the disputed payments were authorised and so I don't think it would be fair to require Barclays to refund them.

I appreciate that Mr D's ex-wife may have gone on to make transactions on the account in addition to what Mr D was expecting, but these would still be treated as authorised. Neither Barclays nor this service are in a position to determine the exact extent of the arrangement between Mr D and his ex-wife, particularly without the input of his ex-wife. And where there are allegations of financial misconduct in these kinds of relationships, the most suitable route can often be a financial order between the parties in court.

Barclays has offered to pay Mr D £250 as compensation for the delays in its investigation of his complaint. And I think this offer is fair and reasonable in the circumstances, so I won't be asking Barclay to do anything further.

**My final decision**

For the reasons explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject this decision before 10 October 2023.

**Ombudsman**