

The complaint

Mr M complains that Barclays Bank UK PLC won't refund money as a result of a scam.

What happened

Between June to July 2023, Mr M used an online casino that I'll call 'S' – he made a number of card payments to use the site that went through several different overseas merchants.

Mr M said he made significant winnings, but he couldn't withdraw them back to his bank account. As a result, he placed his winnings back in his gambling account and used them.

Mr M thinks it was a scam – because he couldn't withdraw his winnings and the terms and conditions say you can't use the site if you're from the UK, but they let him sign up.

So he called Barclays to dispute the payments, but its representative didn't follow up with the possibility of raising chargeback claims.

When Mr M complained, Barclays explained it was now too late to raise the claims. It apologised the advisor didn't follow up before and offered to pay him £100 compensation to reflect this. It also explained that Barclays wouldn't have interfered with these payments, and it didn't consider them to be connected to fraud.

Unhappy, Mr M brought the complaint to our service to investigate.

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 complaint.

Having done so, I've reached the same outcome as our investigator for these reasons.

Barclays' role in processing the disputed payments

It's agreed Mr M made these payments – meaning the starting position in law is that he is liable for them. However, there are situations when it might be appropriate for Barclays to have looked into the wider circumstances surrounding a payment instruction before processing it. Such as if the payment is uncharacteristic or otherwise indicative of fraud.

That said, Barclays wouldn't be expected to give general advice on whether it's a good idea to deal with a merchant. So, whether Barclays should be held liable for Mr M's loss due to its alleged failure to intervene depends on whether Mr M was scammed.

To answer this, I need to decide whether S was a dishonest scheme that intended to deceive him into departing with his money. So it's more than a rogue merchant with misleading or even unethical practices.

I've carefully considered all the information provided about S and I understand why he has concerns about how they operated. But overall, I'm not persuaded there's enough to show it was a scam. That's considering how S's website is still available to use and how there are reviews suggesting customers were able to withdraw winnings. And while I acknowledge the restrictions in S's terms and conditions for UK customers, I don't think it's enough to say the entire scheme was dishonest and designed to trick someone into spending money.

But, even if I was wrong about this and I thought Barclays should've carried out fraud checks, I think it's unlikely Mr M wouldn't have gone ahead with the payments. I'd only expect Barclays to carry out reasonable enquiries about what the payments were for – so I wouldn't expect it to carry out a detailed review into S's credentials and terms and conditions. And I'm mindful that, when Mr M made the payments, this looked to be a legitimate gambling website with no obvious hallmarks it was a scam. After all, at this point, Mr M seemingly had winnings and was yet to experience any issues withdrawing his money.

In conclusion, I'm not persuaded that S was operating as a scam. But even if I was and I thought Barclays ought to have intervened with these payments, I don't consider Barclays would've reasonably been identify it was a scam or that Mr M would've been concerned about making the payments.

Should Barclays have pursued chargeback claims for the disputed payments?

As well as considering Barclays's role in processing the disputed payments, I have considered whether it ought to have done more to help Mr M recoup them.

Here, it's accepted Barclays' representative didn't act as they ought to have done when Mr M called to dispute the payments. So the question left for me to decide is whether it's likely he could've recovered these payments if the representative followed up with the matter correctly.

Chargeback is a voluntary scheme run by card providers – in this case, Visa. That process is subject to the rules of the scheme and we wouldn't expect a bank to pursue matters if there was no prospect of success.

Visa has very limited options for allowing a chargeback when a card has been used to make a payment towards a gambling site (even if it was a scam). And I'm not persuaded any of these would've been successful here. Namely because Mr M would've needed very specific evidence of his failed withdrawal attempts. For example, he'd need to show he cancelled S's services in response, when it seems he carried on using the website.

I've also considered whether Barclays could've relied on how the merchants seemingly used incorrect merchant category code (MCCs) – which is another chargeback option. But for that to succeed, I'd need to be persuaded that Barclays would've declined the payments had the right MCC been used – so the one connected to gambling and betting. Given that Mr M seemed to have made other gambling and betting transactions successfully in the past, I don't think I can reasonably conclude that Barclays would've declined them.

It follows that I don't think that chargeback claims had a reasonable prospect of succeeding. So I don't think Barclays' initial lack of action made a difference to the likelihood of Mr M getting his money back.

I note that our investigator recommended an increase in compensation from £100 to £150 to reflect Mr M's distress and inconvenience caused by Barclays not following up on the matter correctly after its initial call with Mr M. But it strikes me that the driving force of his frustration was that Barclays didn't pursue a chargeback claim. And for the reasons I've explained, I don't think that was ever likely to succeed, even if Barclays followed up on the matter when it should have. Taking this into account, I think £100 is a fair reflection of the impact to Mr M and I make no further award.

I realise this will be disappointing for Mr M, who understandably feels very strongly about the complaint. But for the reasons I've explained, I don't think Barclays is at fault for failing to stop or recover these disputed payments.

My final decision

Barclays Bank UK PLC has already made an offer to pay £100 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Barclays Bank UK PLC should pay £100 if it hasn't done so already. I make no further award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 June 2024.

Emma Szkolar
Ombudsman