

complaint

Mr M complains Barclays Bank Plc won't reimburse money paid from his account by direct debit over several years.

background

Mr M has contacted Barclays asking it to recredit his account with money paid from his account by direct debit to a number of different companies for some years. Mr M said he had neither authorised the payments, nor had he received advance notice of the payments being taken. He believes he's entitled to an immediate refund under the direct debit guarantee. But Barclays has concerns over Mr M's claim and has asked him to provide further information to establish whether a payment error has occurred.

my initial conclusions

I recently issued a preliminary assessment of Mr M's complaint to both parties. In it, I observed that Mr M's main concerns were twofold. He'd said that he didn't receive advance notice of the direct debits, and that he didn't authorise them.

I noted that it wasn't entirely clear whether the guarantee actually applied in the circumstances Mr M had described. The purpose of the guarantee was to provide protection to customers providing originators with access to their accounts in order to collect money. But Mr M had specifically said he didn't do this. He'd said that money was taken from his account without his authority, and disputed entering into any underlying agreement for the collection of direct debits.

I wasn't sure why Mr M might expect to receive advance notice if, as he said, he didn't authorise the payments. And I noted that the wording of the direct debit guarantee wasn't quite as Mr M interpreted it. What the scheme operator, Bacs, actually said was that ***"where an error is made in the payment of your direct debit [my emphasis] by the organisation or your bank or building society, you are entitled to a full and immediate refund of the amount paid from your bank or building society."***¹

I could therefore see why Barclays had asked Mr M for the further information. In doing so, the bank appeared to be attempting to establish that it had valid grounds to apply the guarantee. I didn't consider that an unreasonable approach for the bank to take here.

Mr M didn't agree with my preliminary findings. He asked me to reconsider, making a number of points he felt supported his claim that the bank was acting unfairly.

my findings

I've considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, and after reviewing the further points Mr M has made, I remain of the view that Barclays isn't acting unfairly towards Mr M. However, I think it important to make the following observations.

I'm conscious the way Mr M interprets the direct debit guarantee is also the subject of discussion on several internet forums. He's not alone in his view, and I can see why he

¹ Source: Bacs Payments Schemes Limited's website (www.directdebit.co.uk)

believes the guarantee is absolute. But I have to consider whether it was intended to be used in the way Mr M has sought to apply it here.

The direct debit guarantee enables account holders to receive an immediate refund from their bank in certain – but by no means all – circumstances. As I've said, its purpose is to provide protection to customers who have provided originators with access to their accounts in order to collect money. But most genuine errors in payments will usually come to light relatively quickly. Where that's the case, in most circumstances I might expect the bank to refund immediately. But where several years have elapsed, as here, I rather think that does call into question whether the claim is genuine. In those circumstances, I'm satisfied the bank's not obliged to refund immediately and without question, as Mr M contends.

In my view, the guarantee wording I've highlighted above clearly means that the entitlement to a refund isn't absolute. It requires that an error is made in the payment of the direct debit. Barclays has quite reasonably asked Mr M for further evidence so that it can investigate whether an error was made. Based on what I've seen, I don't believe the fair way to resolve this dispute would be for me to simply require Barclays to refund Mr M.

my final decision

My final decision is that I do not uphold this complaint.

Niall Taylor
ombudsman