

The complaint

Miss C complains that Barclays Bank UK PLC ('Barclays') won't refund the money she paid to a builder for work at her home.

What happened

Miss C says that a builder I'll refer to as G took money in advance but didn't complete any work. She says she's the victim of a scam.

A trusted friend of Miss C's who had used G before recommended G to her. Miss C said that initially she withdrew cash from an account with another bank for work related to windows. G completed this work, but Miss C didn't realise at the time that it was done very poorly. After this, Miss C asked G to do additional work. The overall cost of the project was £16,500 but Miss C told Barclays that G only completed three days' work and that he was incompetent.

Miss C made the following payments to G:

Date	Amount
03/12/21	£1,000
10/12/21	£90
14/12/21	£1,250
Total	£2,340

In February 2022 Miss C called Barclays to raise a scam claim.

Barclays investigated Miss C's claim and contacted the bank that received her funds. It decided that Miss C wasn't the victim of a scam and said she needed to take the matter up with G directly. Miss C wasn't happy with Barclays' response and brought a complaint to this service.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. She felt that Miss C hadn't provided sufficient evidence to demonstrate that she was the victim of a scam, and the evidence that is available points to Miss C having a civil dispute with G. The investigator also thought Barclays acted reasonably in processing the payments.

Miss C didn't agree with the investigator and maintained that G had no intention of completing the work when he took her money. She said G didn't possess the tools to do the work, lacked the necessary knowledge, didn't turn up for work, didn't bring a second person in to help with the work as agreed and only completed about five hours work for a job that was meant to take two people six to eight weeks. Miss C also says the police are investigating and that branch staff agreed she was a scam victim when she first reported what had happened.

Miss C's complaint has been passed to me to consider.

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.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – in other words on what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

Miss C told the investigator her loss is greater than I have recorded in the table above. Having reviewed Miss C's statements I'm satisfied that the only transfers she made to G from her Barclays account were the three I have listed. If Miss C made any cash payments these are not covered by the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code). And if Miss C made transfers from her Barclays account to a different account, she would need to raise this with Barclays as a separate complaint before this service can get involved.

The issue here is not whether Miss C received what she expected and paid for, but whether she was induced to pay money for services G had no intention of providing. This is because the CRM Code is quite explicit that it doesn't apply to all push payments. It says:

"This Code does not apply to: (b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier".

So the CRM Code isn't a general protection for consumers and does not cover situations where a customer has paid a legitimate supplier for something they haven't received. This amounts to a breach of contract which is a civil issue. The CRM Code only applies in very specific circumstances – where the customer has been the victim of an APP (authorised push payment) scam. Under the CRM Code, an APP scam is defined as:

"...a transfer of funds...where

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent."*

To conclude that Miss C is the victim of a scam, I'd need to be satisfied that G deliberately tricked her into paying for services he had no intention of providing at the time the payments were made. I'm not persuaded I can say that is most likely what happened here and will explain why.

As the investigator has pointed out, the evidence here is limited as Miss C hasn't been able to provide the messages she exchanged with G or any invoices. Miss C has provided what she has described as a schedule of work. But this appears to be a document G has created to evidence the work that was completed. The document isn't on headed paper. It sets out the original work in respect of windows and then under the heading 'Works done' referenced work in the kitchen, bathroom, hall and living room. The document also stated,

"Contrary to what she tried telling me that I have done nothing and only worked a few days! I had ordered materials required as client had no idea what was needed".

The document provided by Miss C also says that G went to take in deliveries and,

"After a bunch of worrying Whatsapp messages she told me to take in the deliveries then GO HOME

Obviously I was surprised

As was effectively being kicked off the job".

I've listened to calls Miss C had with Barclays when she reported the scam. In one call Miss C said she told G to leave as he kept breaking tiles. She went on to say that he had broken 20 pieces of tile worth £2,000.

Based on the limited evidence I have I'm satisfied that G completed some work for Miss C but for some reason the relationship broke down. I'm aware that Miss C refutes G's comments (set out above) and says she didn't tell G to leave. Miss C also said that two decorators who were on site could vouch for this. This service is informal and has no power to call witnesses, so I need to carefully consider everything that both parties have provided to reach my decision.

I have seen confidential information from the bank Miss C's funds were paid to. Information about third party accounts can't be shared and there's little I can comment on in this decision. But at the time the payments were made there were no concerns about the account. When an individual or company act fraudulently, we usually see scam reports from others, but this isn't the case here. There is also no evidence of a police investigation which concludes that G acted fraudulently.

Overall, I can't fairly conclude that G acted fraudulently. In the circumstances, the CRM Code doesn't apply. So, I've thought about whether Barclays should have identified the payments as unusual or out of character and so done more to protect Miss C. The transactions were for relatively small amounts that were consistent with the reason given for them, so I don't consider Barclays needed to do anything more.

Overall, whilst I'm sorry to hear about what has happened, I can't fairly ask Barclays to reimburse Miss C.

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 24 October 2023.

Jay Hadfield
Ombudsman