

Complaint

Mrs L complains that Barclays Bank UK PLC didn't reimburse her after she fell victim to a scam.

Background

At the beginning of 2019, Mrs L was contacted by someone promoting an investment opportunity. She was offered the chance to purchase a bond issued by a company which invested in various forms of residential and commercial property. In exchange for an investment of £10,000, she was told that she could expect to earn an equivalent return of 8.5% per year. In March 2019, she transferred £10,000 using her Barclays account.

Unfortunately, the regular payments from the bond issuer never materialised. Mrs L says that she chased these directly with the company, but no explanation was ever given as to why payments weren't forthcoming. Eventually, Mrs L was contacted by an insolvency practitioner who had been appointed by one of its other creditors. As a result of its investigations, it stopped the company from trading and began the process of liquidation. It was around this time that a significant fraud investigation by the police commenced. The focus of that investigation was the director of the company Mrs L had invested with.

Mrs L told Barclays that she'd fallen victim to a scam. It looked into things but it didn't agree to reimburse her. It said that it didn't consider Mrs L had fallen victim to a scam. Instead this was a private civil dispute and Mrs L would need to recover her losses through the normal legal channels.

Mrs L was unhappy with that reply and so she referred her complaint to this service. It was looked at by an Investigator who didn't uphold it. Although the Investigator thought this could have been a scam, she noted that Barclays was only expected to intervene when it should've recognised a risk of fraud. In this instance, she noted that Mrs L had made several other large payments in the months before making the payment to the investment. So she didn't think a payment of £10,000 would've appeared out of character or unusual.

Mrs L disagreed with the Investigator's opinion, and so the complaint has been passed to me to consider and come to a final decision.

Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In deciding what's fair and reasonable in the circumstances of this complaint, I've taken into account the law, regulators' rules and guidance, relevant codes of practice, and what I consider to have been good industry practice at the time. And having done so, I'm not persuaded that Barclays has done anything wrong here.

It's common ground that Mrs L authorised the payment in question, albeit I recognise that she may have been tricked into doing so by the promise of a generous return on her

investment that never materialised. Nonetheless, the payment was “authorised” and so, under the relevant regulations, she is presumed liable for it at first instance.

However, good industry practice required that Barclays be on the lookout for account activity that might have suggested a customer was at risk of financial harm. This would include monitoring account activity for transactions that were unusual or out of character. In some circumstances, it was expected to take additional steps, or carry out additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of fraud.

Unfortunately, I’m not persuaded that Barclays would’ve had any reasonable basis for intervening and questioning this specific payment before allowing it to be processed. I say that because in the months prior to the payment being made, Mrs L had made one payment of £14,000 and another of £9,000. Unfortunately, in that context, I’m not convinced that a payment of £10,000 would’ve stood out. For that reason, I don’t think Barclays needed to call Mrs L before processing the payment.

In any event, even if I thought Barclays ought to have called Mrs L before processing the payment, I’m not persuaded that it would’ve made a difference. We now know that there is serious cause for concern about the conduct of the director of this business. There are numerous potential victims and it has led to an extensive police investigation.

However, when considering whether an intervention on the part of the bank would’ve made a difference, I need to consider what conclusions a Barclays employee ought to have drawn about this investment back in March 2019. I don’t think it would’ve been apparent that this was a scam. Mrs L had been visited at home by a representative of the company promoting the investment. It was supported by professional looking promotional literature. The company had a genuine listing on the Companies House register and had done so for over three years. Its records showed that it had mortgaged at least three residential properties and their addresses were consistent with those named in its investment literature.

Overall, I don’t think there would’ve been any obvious cause for concern. While it would’ve been clear that Mrs L was investing her money in something that was high risk, I don’t think it ought to have been apparent that it might be fraudulent. And Barclays didn’t have any obligation to step in to protect its customers from potentially risky investments.

I don’t say any of this to downplay or diminish the fact that Mrs L has been the victim of what was likely fraud. But my role here is limited to considering the actions and inactions of the bank. I’ve considered the facts of this case carefully and I’m afraid I don’t think Barclays did anything in wrong when it processed Mrs L’s payment without making further enquiries.

Final decision

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

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs L to accept or reject my decision before 31 August 2023.

James Kimmitt
Ombudsman