

## **The complaint**

Miss S is unhappy that Barclays Bank UK PLC (“Barclays”) hasn’t reimbursed payments she made in 2022 for a medical degree. She believes the payments were made as part of a scam.

## **What happened**

In 2022, Miss S made three payments by faster payment to an organisation (I will refer to as S) who acted as an agent for a medical degree at an institution abroad.

Barclays felt this was a civil dispute between Miss S and S.

Our investigator agreed with Barclays that this was a civil dispute. He did not think the information Miss S had provided was evidence of S carrying out a scam.

Miss S felt S ‘masked’ a product for it to be suitable for her. She said S knew the course was not appropriate when it was sold to her. She was promised online lectures, seminars, and full online support for a four-year graduate medicine course. However, once she enrolled onto the online programme, she was told online studies are illegal and she needed to present a valid reason as to why she couldn’t attend on campus. It was also revealed that she would need to complete (and pay for) a further two years for her degree to be approved by the General Medical Council (GMC). She says S was aware of this and has continued to misrepresent the position in its advertising. Miss S believes it meets the definition of fraud as defined by the Fraud Act 2006.

As the case could not be resolved informally, it has been passed to me for a decision.

## **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.

When considering what is fair and reasonable, I am required to take into account: relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

I’m aware that I’ve summarised this complaint in far less detail than Miss S has presented to us, but I have read all of her submissions. I’m not responding to every single point made but instead I’ve concentrated on what I think are the key issues material to the outcome of this complaint.

I’m not deciding a dispute between Miss S and S – I don’t have the power to look into a complaint about S. My role is limited to deciding the dispute between Miss S and Barclays.

Having looked at everything, I can see no basis on which I can fairly require Barclays to refund the payments in dispute. I realise this will be disappointing news for Miss S, and it isn’t the outcome she’ll be hoping for, but I’ll explain my reasoning below.

As a starting point in law, Miss S is responsible for payments she has instructed Barclays to make for her. Unfortunately, there's little protection available for payments, like this one, made by bank transfer.

The Lending Standards Board Contingent Reimbursement Model ("CRM") does provide some protection to victims of authorised push payment (APP) scams. But it excludes civil disputes.

*"DS2(2) 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 question I need to decide is whether S was acting fraudulently and deceived Miss S into giving her money. Specifically, that means deciding whether the evidence shows it is more likely that S set out to defraud Miss S with criminal intent.

Whilst I can quite understand why Miss S feels that S has scammed her, there is a high legal threshold or burden of proof for fraud, i.e. dishonestly making a false representation and/or failing to disclose information with the intention of making a gain for himself or of causing loss to another or exposing another to the risk of loss (Fraud Act 2006). And there are a number of potential reasons (other than a scam) for the breakdown in a relationship between two parties and for a dispute to exist. A business could run into financial difficulties, or it could simply have been a very badly run business and with poor customer service.

Miss S has pointed to S advertising the course as GMC approved whilst being well aware since 2021 that it wasn't. And she considers this to be a false representation to gain money. While I understand Miss S's concerns, I don't consider it necessarily proves fraudulent intent.

The business Miss S had contracted with did provide some items/services for her (albeit she is dissatisfied with them). S also responded to her complaint (and it seems it doesn't agree with what she has said). It's engaged with providing this service information too. This level of engagement is not typical of a scam.

S's bank's investigation did not support the allegation that its customer was conducting their account in a fraudulent manner or that Miss S's payment had resulted from a scam. It concluded it was more likely a buyer/seller dispute. While I cannot share the detail of that evidence here, I can reassure Miss S that I have reviewed it and I am satisfied the bank investigated appropriately and acted fairly in reaching the outcome it did.

On balance, I think there is enough evidence to show S was operating legitimately. I've not seen enough compelling evidence to suggest it stopped being a legitimate business and began to take customer money without having any intention of providing the services that were paid for.

Taking everything into consideration, I don't find the evidence here sufficient for me to conclude this was most likely an Authorised Push Payment scam. Nor does the evidence persuade me it is more likely than not that the business Miss S dealt with was acting with fraudulent intent. In saying that I recognise S might have got things wrong. I accept and acknowledge that Miss S may feel she has not received the service she expected and even that S may have provided misleading or incorrect information. But that is different from a finding of fraudulent intent.

Miss S has my sympathies. But overall, I can't safely say that this situation meets the high legal threshold and burden of proof for fraud. This is not to say that there is no issue at all between Miss S and S. Clearly there is. But this type of dispute isn't something that the CRM Code covers.

In saying all of this, I don't underestimate the impact this whole matter has had on Miss S. Miss S has strong feelings about this matter. I can understand that - she was out of pocket and wanted her money back as soon as possible. Whilst I acknowledge Miss S's frustration with the unenviable situation, she found herself in, it's simply the case that I don't think Barclays was at fault here and I can't fairly tell it to pay her for the money she's lost.

As the evidence doesn't support a finding that S was operating fraudulently that means that Barclays aren't responsible for Miss S's loss and the bank had no obligation or ability to try and recover her money. Neither can I fairly require it to apply the CRM Code.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 19 October 2023.

Kathryn Milne  
**Ombudsman**