

## **The complaint**

Miss S complains that Barclays Bank UK PLC won't refund the money she lost after she was the victim of what she feels was a scam.

## **What happened**

In December 2022, Miss S saw a handbag listed for sale on a social media website. She had successfully bought items from the seller in the past so trusted they were genuine, agreed to buy the handbag and sent a payment of £785 to the seller's bank details. Unfortunately, the handbag was never delivered to her, so Miss S reported the payment to Barclays as a scam.

Barclays investigated but said, as Miss S had successfully bought items from the seller previously, it didn't think this was a scam. And so it didn't agree to refund the money she had lost. Miss S wasn't satisfied with Barclays' response, so referred a complaint to our service.

One of our investigators looked at the case. They thought this was most likely a civil dispute between Miss S and the seller, rather than a scam, and so Barclays had acted reasonably in not refunding the payment. Miss S disagreed with our investigator, so the complaint has been passed to me.

## **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.

In broad terms, the starting position in law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

Barclays is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This requires firms to reimburse customers who have been the victim of certain types of scams, in all but a limited number of circumstances. But customers are only covered by the code where they have been the victim of a scam.

The CRM code says that it doesn't apply to private civil disputes, such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way or the customer is otherwise dissatisfied with the supplier. So in order to determine whether Barclays should refund the money Miss S lost under the CRM code, I need to consider whether she has been the victim of a scam – or, in other words, whether the seller set out from the beginning with the intent to defraud her.

I've thought very carefully about this and I think it's a finely balanced matter in this case. But where the evidence available is unclear or inconclusive, I must make my decision on what I think is likely to have happened, based on the evidence I do have.

Miss S has made two previous payments to this seller and successfully received the items she paid for with those purchases. And I think this suggests the seller was attempting to operate as a legitimate business, as it would take more work than I would expect from a scammer to successfully complete two different purchases.

The bank this payment was sent to has also told us it hasn't received any other scam reports against the account and didn't have any concerns about how the account was being run at the time. But scammers usually target a number of people at once, in order to make as much money as possible before the scam is uncovered. So I'd expect to see other scam reports to the same account around the same time if the seller was operating a scam.

The seller also appears to have continued communicating with Miss S about the handbag for some time after the money was sent, which I also wouldn't necessarily expect from a scammer.

Miss S has said Barclays initially said the seller may have successfully sold her two cheaper items in order to lure her into buying a more expensive item later. And I can't say for sure that this isn't what happened. But, as the handbag was advertised on social media, there doesn't appear to have been any way for the seller to guarantee that Miss S, or anyone else they had made previous successful sales to, would see the advert or agree to buy the handbag. And, given the other evidence I've mentioned above, I think it's more likely the seller was attempting to operate as a legitimate business.

I appreciate how Miss S feels about this case, and that she has lost money as the handbag was never delivered to her. But I must make a decision on what I think is most likely to have happened. And, based on the evidence I've seen, I think it's more likely the seller here was attempting to operate as a legitimate business at the time and that other factors ultimately meant the handbag wasn't delivered. I don't think the seller set out from the beginning with the intent to defraud Miss S, or that she has been the victim of a scam here.

So I don't think the payment Miss S made to the seller is covered under the CRM code, or that Barclays should be required to refund the money she lost.

I sympathise with the position Miss S has found herself in, and I'm in no way saying she did anything wrong or that she doesn't have a legitimate grievance against the seller. But I can only look at Barclays' responsibilities and, for the reasons I've explained above, I don't think it would be fair to hold Barclays responsible for the money she lost.

## **My final decision**

For the reasons set out above, I don't 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 8 December 2023.

Alan Millward

**Ombudsman**