

## The complaint

Mr and Mrs P complain that Barclays Bank UK PLC won't refund all the money they have lost to a scam.

## What happened

Between July 2021 and August 2022 Mr and Mrs P made five payments totalling approximately £4,360 to a company - who I'll refer to as A, as they believed A could help them recover funds they'd lost because of a problem with a timeshare.

Transaction Date/account debited date	Amount	Payment Type
09 July 2021/12 July 2021	£1,331.48	Debit card
14 July 2022/15 July 2022	£744.36	International transfer
26 July 2022/27 July 2022	£829.08	International transfer
03 August 2022/04 August 2022	£852.08	International transfer
11 August 2022	£604	Bill payment

Mr and Mrs P later realised they had been the victims of a scam. They initially complained to Barclays about the payments made from 26 July 2022 onwards – in that Barclays had failed to protect them from falling victim to the scam.

Barclays considered these payments and refunded one of them - £604 made on 11 August 2022. But it didn't refund the other two. It said Mr and Mrs P had failed to carry out any due diligence before making the payments. And, as these payments were international payments, they weren't covered by the Contingent Reimbursement Model (CRM) code. It said it had tried to recover the funds from the beneficiary bank, but its attempts were unsuccessful.

Unhappy with this outcome, Mr and Mrs P referred the complaint to this service. They said:

- they had made checks via Companies House about A and A looked to be a legitimate company.
- they didn't realise it was a scam until the funds they were expecting weren't received on 12 August 2022.
- Barclays didn't act quickly enough to recover the funds.

Our investigator looked into the complaint. In doing so, it came to light that Mr and Mrs P were also disputing two earlier payments made on 9 July 2021 and 14 July 2022. So, he considered all five payments, but he didn't uphold the complaint.

He noted that Barclays had refunded the payment from 11 August 2022. But he didn't think the other payments were particularly unusual or suspicious when considered against the normal account activity. He added that Barclays had shown it had made appropriate attempts to recover the payments made 26 July and 3 August 2022, but those attempts had

been unsuccessful. He noted that Barclays hadn't attempted to recover the payment made on 14 July 2022, but he thought it was unlikely that Barclays would've have recovered those funds given the recovery attempt on the later payments had been unsuccessful.

Mr and Mrs P disagreed. They said A was registered on Company House records. And that the payment in July 2021 wasn't consistent with their normal account activity. They maintained that Barclays should have stopped the money from leaving their account.

Our investigator considered this further. But he didn't think this altered the outcome he had reached. He said Barclays had no control over what information was recorded on Company House records. And that the type and amount of the payments Mr and Mrs P made weren't large enough for him to say Barclays should have intervened before allowing the payments to debit Mr and Mrs P's account.

Mr and Mrs P still didn't agree. So, the complaint has been passed to me for a final 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.

Having done so, I'm not upholding this complaint for largely the same reasons as our investigator previously set out. I realise this will come as a disappointment to Mr and Mrs P. But for the reasons I'll go on to explain, I don't think Barclays has acted unfairly or unreasonably.

I'm sorry to hear Mr and Mrs P were the victims of a targeted scam and lost a considerable sum of money as a result. I can appreciate why they want to do all they can to recover the money they lost. But I can only direct Barclays to refund Mr and Mrs P's losses if it can fairly and reasonably be held responsible for them.

It's not in dispute that Mr and Mrs P authorised the payments from their Barclays account. While I accept Mr and Mrs P didn't intend the money to go to the scammers, under the Payment Services Regulations 2017 and the terms and conditions of their account, Mr and Mrs P are presumed liable for their loss in the first instance. I'm also satisfied that as the payments in dispute are international payments, they do not fall under the provisions of the Lending Standards Board Contingent Reimbursement Model (CRM Code). The CRM Code only covers payments between UK based, pound sterling accounts.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for a bank to take additional steps or make additional checks before processing a payment in order to help protect its customers from the possibility of financial harm from fraud.

But there is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. So, a bank would only need to intervene and ask more questions about the payment if an instruction was sufficiently unusual or uncharacteristic for the account.

So, the starting point for me is to consider is whether any of Mr and Mrs P's payment instructions – taken individually or collectively - were particularly unusual or uncharacteristic, when looking at their normal payments on their account.

Barclays has refunded the payment made on 11 August 2022, so I don't need to make a finding on that payment. But I've given careful thought to the other four payments.

The first payment in July 2021 was the largest of the payments Mr and Mrs P made. I've looked at their account statements. And I've noted the account this payment was made from was different to the one used for the other payments. And it was card payment rather than international transfer – although it was also in Euros. While I accept it was larger than other card payments Mr and Mrs P made from this account, I'm not persuaded the payment was so large or particularly unusual to the extent that Barclays should have intervened before allowing the payment to go through.

I've then considered the sequence of payments made between 14 July and 3 August 2022. Again, I accept these payments were not completely in keeping with Mr and Mrs P day-to-day account use. But the payments weren't made in particularly quick succession – the first payment was instructed on 14 July, the second on 26 July and the final payment was on 3 August 2022. I don't think it would be reasonable to say Barclays should have identified a pattern from these three payments that was especially indicative that a scam was taking place. So here, I also don't find that the payments were so unusual that Barclays should have intervened.

As I can find no reason why Barclays ought to have intervened before processing Mr and Mrs P's payments, I can't reasonably conclude that it could or should have prevented their loss.

I have considered whether Barclays met the standards I'd reasonably expect of it in terms of attempting to recover Mr and Mrs P's funds from the beneficiary bank. I haven't seen anything to suggest that Mr and Mrs P raised the payment made in July 2021 with Barclays. And given the time that has passed before Mr and Mrs P contacted Barclays about the subsequent transactions, I find it's most unlikely that Barclays would have been able to recover this payment. This is because the relevant card scheme rules which apply to card payment chargebacks only provide a limited timeframe for transactions to be disputed. And here the timeframe had passed.

All the other payments were international transfers. In these circumstances any recovery attempt is made on a best endeavours basis and rely on both the money still being present in the beneficiary account and the willingness of the receiving bank to give it back. Barclays has shown that it did try to recover the money, but the beneficiary bank responded to confirm that the funds had been moved.

I note Mr and Mrs P have said that had Barclays tried to recover the money sooner the outcome might have been different. Mr and Mrs P initially said they first contacted Barclays on 12 August 2022. But in an email to the investigator Mrs P says the matter was raised in branch on 18 August 2022. So, I think it's most likely that Mr and Mrs P raised the matter on 18 August 2022.

I've seen that Barclays attempted to recover two of the payments a few days later. Given the circumstances, I do think Barclays could have made the recovery attempt sooner than it did. But even if had, I'm not persuaded that the outcome would have been any different.

I think it's most likely that following receipt of the payments, the scammers would have moved the money from the beneficiary account very quickly – most likely as soon as it had been received. And our experience shows that once money has been transferred outside of the United Kingdom it is unlikely that it will be recovered once a scam has been identified.

I appreciate that Barclays didn't attempt to recover the payment sent on 13 July 2022, but as the recovery attempt on the later payments was unsuccessful, I'm not persuaded that a recovery attempt on this payment would have been successful.

In summary, I have a great deal of sympathy with Mr and Mrs P being the victim of what was clearly a scam. But it would only be fair for me to direct Barclays to refund their loss if I thought it was responsible – and I'm not persuaded that this was the case. As such, I cannot fairly and reasonably hold Barclays liable in these circumstances. It follows that I will not be asking Barclays to take any further action in respect of this complaint.

### **My final decision**

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P and Mrs P to accept or reject my decision before 23 August 2023.

Sandra Greene  
**Ombudsman**