

## **The complaint**

A company which I will refer to as 'R' complains that Barclays Bank UK Plc didn't do enough to prevent their loss as a result of a scam.

## **What happened**

Briefly, in September 2018, the director of R was contacted by a scammer posing as a staff member from HMRC. He was told that HMRC had previously miscalculated the tax due from R and therefore the company needed to pay a further sum of about £5,000.

The director says that the call appeared to come from a genuine HMRC number, and the caller knew a lot of information about R's accounts. So, he didn't have any doubt that the caller was from HMRC. He went ahead and made the requested payment, spread over three transactions.

As soon as the call with the scammer ended, the director contacted Barclays as he was suspicious about what had happened. Barclays in turn contacted the recipient's bank but unfortunately the funds had been removed swiftly by the recipient.

Early this year, the director asked Barclays to reimburse R's loss. The bank didn't agree. It said it made no error.

One of our investigators considered the complaint and was of the view that it could not be upheld. They said that the bank made no error or omission. They said, in summary:

- The payments were not particularly unusual or suspicious compared to the normal account activity. Further, R didn't interact with the bank's staff at the time, so it can't be said that the bank missed an opportunity to identify the scam.
- At the time the scam happened, the banks were not obliged to check whether the payee's name matched the actual name on the recipient's account. Such a check, called Confirmation of Payee (CoP), was introduced only afterwards.
- There was a slight delay by Barclays in contacting the recipient's bank to notify them of the scam. But the funds were rapidly dispersed within minutes upon receipt, and so the delay didn't make a difference to the ultimate outcome.

R did not agree. They said that the bank ought to have found it suspicious when three payments went in quick succession to a newly added payee, and therefore intervened. Further, the payee's name as input by R was incomplete, as it had no prefix or surname. That ought to have been picked up by the bank. The bank should also have given a warning that it wouldn't be validating the name.

## **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 agree with the conclusion reached by our investigator and for essentially the same reasons.

As the investigator has said, in broad terms, the starting position in law is that a bank is expected to process payments and withdrawals that its customer authorises it to make. However, there are circumstances where it might be appropriate for banks to take additional steps – as for example have systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud.

I have reviewed R's account statements for a year or so prior to the payments to the scammer, to understand the general account activity. Over the period, I see that this was an active account with many incoming and outgoing payments. There have been several occasions of multiple payments on the same day though many of them appear to be internal transfers to another account.

However, there have been external payments of similar or higher amounts too. For example, in June 2018 there was a payment of £2,000 to a third party, and a week before the scam there was a payment of about £5,000 to HMRC. In fact, I see that most of the external payments were to HMRC (an existing payee). So, I can see the bank's argument that there was no need to set up a new payee to pay any shortfall in tax.

I agree that the three payments went in quick succession. However, as I said, this was an active account, and the size of the three payments were not unusual compared to the typical transactions. So, I am not persuaded this alone ought to have given the bank a cause for concern.

The director has said that the payee's name, as input by him, had no prefix or surname. He says that the bank failed to validate this and raise this as a concern. Instead, it allowed the payments through. However, looking at the bank statement it seems more likely that the payee's name was entered in full (which was the director's name). It seems that it was in the reference field just his first name was entered. However, a customer is usually able to input what they consider necessary in the reference field.

Regarding the bank's failure to carry out the name check, as the investigator has said, at the relevant time the bank was not required to check the payee's name against the actual name on the destination account. So long as the unique identifiers (which tend to be sort code and account number) were correct, the bank was able to carry out R's instructions. Whilst it is always helpful if the bank could provide as much warning and information as possible, it was not obliged to warn the payer that it was not carrying out a name check.

Ultimately, it is a matter for Barclays as to how it chooses to configure its fraud detection systems and strike a balance between allowing its customers to transact business and questioning transactions to confirm they are legitimate. But where it is alleged that it didn't do enough to prevent a loss which resulted from an authorised push payment fraud, I will look into the circumstances of the case and based on what I have seen, decide whether in that case the bank could have fairly and reasonably done more.

After taking all of the above into account, I can't say that the disputed payments stood out sufficiently to reasonably have prompted Barclays to take further action. I'm not persuaded that there was enough here for me to find Barclays was at fault in carrying out R's payment instruction in line with its primary obligation to do so.

There was some delay in Barclays contacting the recipient bank. However, the available information shows that the recipient had immediately withdrawn the money. So, even if the bank had acted quickly to inform the recipient's bank, I consider it unlikely that any funds of R would have been recovered.

I appreciate this will come as a disappointment to R. But I can only make an award against a bank if it has done something wrong that led to a loss. In this case, for the reasons given, I am not persuaded that there was any error or omission on part of Barclays which has resulted in R's loss. As such I can't fairly or reasonably ask it to refund their loss.

### **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 R to accept or reject my decision before 13 October 2023.

Raj Varadarajan  
**Ombudsman**