

The complaint

Miss M complains that Barclays Bank UK PLC (Barclays) won't refund all the money she lost in a scam.

What happened

What Miss M says:

Miss M has lived in the UK for 13 years, but still has family in China. In November 2022, she started to get calls from some unknown UK numbers, and then one from a caller who said he represented the anti-scam service in China. She was told her name and ID were being used to fraudulently claim medical insurance pay-outs. She said it wasn't her, and she was then told she was being redirected to a police station in a city in China. She was then told her ID was being used to buy cryptocurrency. Contact then continued over phone, Skype, WhatsApp and email.

She was shown an image of her China national ID. She was sent a link to what was said to be the website of the police station, and this took her to links to what purported to be the case and the police officer dealing with it.

The website showed alleged suspects being interviewed. She was told the case had high confidentiality and not to leak any information about it – as that would be committing a crime.

She was shown a photo of her family's ID cards, and these looked genuine. She was asked to go back to China for the investigation, but as she was working in the UK, she couldn't. They then asked her to transfer money – to prove she had enough money and so didn't need to commit a crime. She was instructed to send two payments. She tried to use another bank, but they wouldn't make the payments – as they wanted to see the documents and reason for the transfers. She then made the payments through a branch of Barclays as shown (**continued**):

Date	Payment	Amount
3 January 2023	In branch - International payment in USD to personal account in Hong Kong	£25,000
5 January 2023	In branch - International payment in USD to personal account in Hong Kong	£7,000

Total		£32,000
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The scammers then stopped replying to her messages and when she called the number again, it wasn't answered or was busy. She then found the number of the official anti-scam service in China and was told this was a scam. She reported it to UK Action fraud and Barclays.

Miss M says Barclays should've done more to protect her and they should refund all of the money she's lost.

What Barclays said:

Initially, Barclays declined the claim. But after Miss M complained, they reversed the decision and agreed to refund 50% of the payments - £16,000 plus interest at 8% per annum simple. And paid compensation of £150. Barclays said they should've done more to protect Miss M.

Barclays said that she should bear 50% of the losses as Miss M made payments to a personal bank account – which isn't something a legitimate government organisation would ask; and there is a lot of information and warnings available online which should've been used before she made the payments. So – Miss M should have shown a reasonable level of care to protect her money alongside the checks the bank makes.

Our investigation so far:

Miss M didn't agree and brought her complaint to us. Our investigator said Barclays had done enough in refunding 50%. While Barclays did intervene and held the second payment of £7,000, they should've also intervened in the first payment of £25,000, but didn't.

He agreed that Miss M should bear 50% of her losses as:

- The story about not leaking information and that being a crime wasn't credible.
- The beneficiary was a personal account, which should've raised questions.
- She was told not to tell the truth to the bank, but to say the payments were for money she was lending to a friend – no reputable organisation would ask her to lie.
- These were all 'red flags' and should've caused Miss M to question what was happening.

Miss M didn't agree. She said Barclays were the experts and they knew the extent of the scams that were taking place. They could've checked the authenticity of the transfers. No warnings were given to her in the branch when she made the payments. She was completely taken in by the scammers. She said again that they showed her family's IDs, and she was told that the investigation was confidential and she wasn't allowed to say anything about it. She was put under a lot of pressure to make the payments; and it's unreasonable to expect her to have a clear head under such circumstances.

She asked that an ombudsman look at her complaint, and so it has come to me to make a final decision.

What I've decided

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

I'm sorry to hear that Miss M has lost money in a cruel and sophisticated scam. It's not in question that she authorised and consented to the payments in this case. So although Miss M didn't intend for the money to go to a scammer, she is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case. But that is not the end of the story. Taking 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, I consider Barclays should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

I need to decide whether Barclays acted fairly and reasonably in its dealings with Miss M when she made the payments, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) – which provides for refunds in certain circumstances - doesn't apply in this case. That is because it applies to faster payments made to a UK beneficiary– and in this case, the payments were made to an overseas account in Hong Kong.

The first consideration here is: if the payments were of a sufficient size and were out of character with how Miss M normally used her account – then we would expect Barclays to have intervened and spoken to Miss M about them. I looked at Miss M's account, and it's fair to say that the payments were unusual. I can see that Miss M's account was almost 'dormant' during 2022. Other than one payment of £25,000 on 22 July 2022, and a credit of £25,007 on 20 July 2022, there wasn't any activity on her accounts during the whole of 2022.

The first payment of £25,000 was preceded on the same day by a credit for the same amount – and the balance before those transactions was £1,152 credit. So – in those circumstances, an international payment, in USD, and to a new payee should reasonably have been held by Barclays and Miss M contacted about it.

Barclays was the expert in such matters and if they'd intervened, held the payments and contacted Miss M we would have expected them to ask open questions such as:

- Why are you making the payment?

- Who to?
- For what purpose?
- How were you contacted about it?
- Where did the money come from that you're sending?
- Where is the money going to and why?
- How were you given the bank account details where the money was to be paid to?
- Have you given control on your devices to anyone else?

Barclays accept they should've done that, and may have been able to prevent Miss M's losses – from the first payment. But unfortunately, they didn't.

So, in the first instance, I consider Barclays are liable for Miss M's losses - £32,000.

Contributory Negligence:

Barclays accepted they should've intervened in the first payment and recognised that and refunded half of the money sent. Barclays said Miss M should've realised this was a scam and taken more care.

So – the crux of my decision comes down to whether I also think Miss M should reasonably bear some responsibility for her losses – could she have done more to protect herself?

I accept that she was put under a lot of pressure; and was told that she couldn't say anything about the payments under the threat of committing a crime; and the photos of her family's ID looked credible and genuine. She was coached as to what story to tell the bank if they questioned the payments. It must have been a difficult time for her, and I sympathise.

But on balance, I agree she should be responsible for 50% of her losses. I say that as she ought reasonably have been concerned this was a scam, and she should've been alerted to it as:

- The first bank she asked to make the payments through declined to do so. This should have caused her to be on her guard and question what was going on.
- The payments were to a personal account – no government organisation would ask someone to do that.
- The payments were to an account in a bank in Hong Kong (not mainland China) – this didn't make sense.
- The payments were in USD – not in RMB or HKD – this didn't make sense.
- It didn't seem credible to send money to the police who were apparently investigating a crime. And the reason for that doesn't seem credible either. And – there didn't seem to be a promise or scheme by which it would be repaid to Miss M?
- The request for payment was set out in an email headed 'Serve for the People' – which doesn't seem credible, nor relate to a police service.
- The contact and correspondence took place from mid-November 2022, and the payments weren't made until early January 2023 – so Miss M had six weeks or so to think about what she was being asked to do, and to seek advice from a trusted friend or advisor (notwithstanding what she had been told by the scammers), but there's no evidence she did.

Recovery:

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Barclays took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money. Miss M reported the scam to Barclays on 6 May 2023. Barclays contacted the recipient bank to ask them to obtain the

account holder's authority to debit the account. That's the process that takes place where overseas banks are involved. It is rare for a firm to achieve any recovery from an overseas bank – as they have fewer obligations to send money back, compared to a UK bank. Later in May 2023, the bank concerned said they couldn't help, and Barclays advised Miss M.

But – I can see Barclays did what they could to recover the money.

Miss M has lost a lot of money. I was sorry to learn of the circumstances of this cruel and sophisticated scam. She will therefore be disappointed by my decision, but I'm not going to ask Barclays to do anymore here.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 20 February 2024.

Martin Lord
Ombudsman