

## The complaint

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

## What happened

In late 2022, Miss B was looking to get some building work done at her property. She posted an advert on a job listings website and was contacted by a builder who said they were interested in doing the work. The builder visited the property and provided a quote, which Miss B accepted. Miss B then signed a contract with the builder, made two initial payments to them and – after the builder sent her a photo showing the work had been started – made a third payment. I've set out the payments Miss B made to the builder below:

Date	Amount
17 October 2022	£2,000
17 October 2022	£2,000
17 October 2022	£11,000

Miss B says the builder then started asking for more money. She says she told them she couldn't pay anything further and the builder then suggested she took out a loan. But when she refused to take out a loan, the builder stopped responding to her and hasn't carried out any more work. Miss B then reported the payments she had made to Barclays as a scam.

Barclays investigated but said it felt this was a civil dispute between Miss B and the builder, so it didn't agree to refund the payments. Miss B wasn't satisfied with Barclay's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think there was enough evidence to say the builder had set out from the beginning with the intention to scam Miss B. So they didn't think Barclays should have to refund the money she had lost. Miss B 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 B lost under the CRM code, I need to consider whether she has been the victim of a scam – or, in other words, whether the builder 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 B says she checked the builder's website and looked at online reviews of them before agreeing for them to do the work. But I wouldn't necessarily expect a scammer to have put together a website or been able to arrange positive online reviews. The builder was also registered on the government register of companies for more than a year before they contacted Miss E, which I wouldn't necessarily expect of a scammer.

The builder drew up a contract setting out the work to be done, when it would start and when it was to be finished by – which both they and Miss B signed. But I wouldn't necessarily expect a scammer to have signed a contract, or to have produced one on a personalised company form – as this one was.

The builder also started the work when agreed, including arranging for scaffolding to be put up around Miss B's property. But I'd usually expect a scammer to do as little work as possible in order to get the maximum possible profit in the shortest period of time. So the builder here appears to have done more work, and more complex work, than I'd expect from a scammer who never intended to complete the work.

The bank the payments were sent to has also told us that it hasn't received any other scam reports against the account. 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 builder was operating a scam.

Miss B has mentioned that the builder asked her to make payments into his colleagues' account and that tradesmen came to her property on several occasions and acted threateningly, saying they hadn't been paid by the builder. But while I appreciate this will have been very distressing for Miss B and suggests the builder wasn't acting professionally, I don't think it shows they intended to scam her from the beginning.

Miss B has also shown that it was arranged for the builder's company to be dissolved shortly after the payments she made. But I don't think this necessarily shows the builder knew he wouldn't be able to complete the work or otherwise intended to scam Miss B, rather than that their business ultimately failed.

I appreciate how Miss B feels about this case, and that the work at her property was left unfinished and she has had to pay for another builder to finish the work. 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 builder here was attempting to operate as a legitimate business at the time and that other factors ultimately meant the building work wasn't completed. I don't think the builder set out from the beginning with the intent to defraud Miss B, or that she has been the victim of a scam here.

So I don't think the payments Miss B made to the builder are covered under the CRM code, or that Barclays should be required to refund the money she lost.

I sympathise with the position Miss B 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 builder. 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 B to accept or reject my decision before 10 November 2023.

Alan Millward  
**Ombudsman**