

The complaint

Mr and Mrs R complain about Barclays Bank UK PLC.

They say that Barclays didn't do enough to protect them from becoming the victims of a scam and would like Barclays to refund them the money they have lost as a result.

What happened

In 2016, Mr and Mrs R were called by a broker offering an investment in a property bond. They were persuaded to part with £10,000 into the investment.

Mr and Mrs R say that they became aware that they had been scammed when they were contacted by the police some time later.

Mr and Mrs R complained to Barclays, saying that it didn't provide them with any warnings at the time they made the payment which would have prevented them from losing their money.

Barclays hasn't upheld their complaint. Unhappy, they brought their complaint to this Service.

Our Investigator looked into things but didn't think that their complaint should be upheld.

Mr and Mrs R remained unhappy, so the complaint has been passed to me to make 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've decided not to uphold Mr and Mrs R's complaint for broadly the same reasons as our Investigator. I know that this will be disappointing for Mr and Mrs R, so I'll explain why.

Were Mr and Mrs R the victims of a scam?

It isn't immediately apparent here if Mr and Mrs R were the victims of a scam – Barclays say that Mr and Mrs R paid a legitimate business which has now gone into liquidation. However, Mr and Mrs R and their representatives have provided information which suggests that they were the victim of a sophisticated scam.

Barclays has no obligation to protect its customers from bad bargains or to provide investment advice – so if Mr and Mrs R paid money to a legitimate company, it would be under no obligation to have prevented the payment from being made.

That said, as it is unclear if Mr and Mrs R were scammed, I will explain why I am still not upholding their complaint, even if this was the case.

Did Mr and Mrs R authorise the payment?

I don't think it is in dispute here that Mr and Mrs R authorised the payment in question – they made the payment through their online banking services. This means that they gave Barclays the instruction to make the payment from their account. While I understand that Mr and Mrs R did not think at the time that they would go on to lose their money, this doesn't change the fact that they authorised the payment in the first instance, and businesses are generally expected to act on their customers instruction.

Recovery of the payment

Mr and Mrs R feel that they are entitled to a refund under the Contingent Reimbursement model (CRM) code. However, this was not in place at the time. And by the time Mr and Mrs R made Barclays aware of the loss they had suffered, the business they paid had already gone into liquidation – they also did not report the payment to Barclays until 2022 – six years after it had been made. So, I don't think it likely the funds were recoverable by this time.

Should Barclays have prevented the payment?

As I've explained above, it isn't completely clear if Mr and Mrs R were the victims of a scam here – however, as they have provided some information which suggests that this may be the case, I have also considered if Barclays should have intervened.

I can only uphold this complaint if I think Barclays reasonably ought to have prevented the payment in the first place – therefore preventing the loss before it happened.

Mr and Mrs R authorised the payment in question here – so as I've explained above, they are presumed liable for the loss in the first instance.

That said, as a matter of good industry practice, Barclays should have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction.

Taking into account the law, regulatory rules and guidance, relevant codes of practice and what I consider having been good industry practice at the time, I consider Barclays should fairly and reasonably:

- Been monitoring accounts – including payments made and received – to counter various risks including anti-money laundering, countering the financing of terrorism and preventing fraud and scams;
- Had systems in place to look out for unusual transactions or other signs that might indicate its customers were at risk of fraud (amongst 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; and
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made 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.

So, I've carefully considered what this means for Mr and Mrs R and the payment they made.

Having looked at Mr and Mrs R's account history in the months leading up to the payment, I'm not persuaded that Barclays should have contacted Mr and Mrs R before processing their payment request. I say this because I don't think that it was sufficiently unusual, uncharacteristic, or suspicious to have triggered Barclays into taking extra steps.

Mr and Mrs R had made several high value payments of a similar amount in the lead up to the payment in question here – so I don't think that it was out of character considering the way they used their account.

This means that as Barclays didn't interact with Mr and Mrs R at the time of the payment – and I can't reasonably say Barclays ought to have been *obliged* to have gotten in touch with them about it either. So, I'm satisfied Barclays didn't unreasonably miss an opportunity to prevent the payment before it was sent.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R and Mr R to accept or reject my decision before 12 September 2023.

Claire Pugh
Ombudsman