

The complaint

Mrs K and Miss K are unhappy that Barclays Bank UK PLC have refused to refund money that they paid to have building works carried out.

What happened

As it was Miss K that primarily dealt with the builders, for ease I've referred to her throughout this decision.

Miss K employed a limited company, that I'll call B, to replace a tiled and flat roof. Miss K says that the work was supposed to take two weeks and cost £12,000. But, after three months the work still wasn't complete.

Miss K says that B became unresponsive to her communication attempts, causing her to lose confidence and ask for her money back. B asked for more money to complete the work and when she refused, they didn't return.

Miss K made payments in January, April and June of 2021 totalling almost £10,000. She reported the matter to Barclays in July 2021. Barclays said that the matter was a civil dispute between her and the builder. But Miss K said that both Action Fraud and Trading Standards thought it was a scam. She pointed to the fact that two of the payments she made had been sent to individuals who were not formally associated with B.

Miss K says that the situation has caused her a significant amount of distress and she's also had to employ someone else to carry out the work. She was also unhappy that Barclays didn't advise her that she could raise a complaint when she first raised the issue and that she spent a long time explaining what had happened, only to be told that the matter was a civil dispute.

Miss K referred the matter to our service but one of our Investigators didn't uphold the complaint. They thought that Miss K had a civil dispute with B, that meant that the provisions of the Lending Standards Board Contingent Reimbursement Model "CRM Code" (that might have otherwise required Barclays to refund Miss K) weren't relevant.

Miss K disagreed, in summary she said:

- Two of the recipients were not legitimate suppliers of goods because they were not connected to B. One of the recipients portrayed himself as being a representative of B, but he wasn't.
- Barclays failed to stop or question the transactions despite them being unusual and, two of them, going to personal accounts when the reason given for the payments was 'paying a bill'.
- Had Barclays alerted her to the fact that two of the accounts she was paying had no relationship with B, she wouldn't have made the payments.
- Barclays did not make her aware of the complaints process when she first reported the fraud.

As no agreement could be reached, the case was 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.

In law, Miss K is responsible for payments she's authorised herself. Faster payments, like the three disputed, don't attract any of the same consumer protections as payments made by plastic card. And, Barclays has no obligation to protect Miss K from a bad bargain or a potential civil dispute.

I can only hold Barclays responsible for Miss K's loss if the provisions of the CRM Code are relevant. For that to be the case, Miss K would have to have been the victim of a scam, which is defined in the CRM Code as:

...a transfer of funds executed across Faster Payments...where:

- *(i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- *(ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.*

The above provisions mean I need to consider whether Miss K was deceived by B and whether it set out to defraud her. This is an accusation of criminal wrongdoing and not one that should be taken lightly.

I accept that Miss K has suffered a significant amount of stress here. On the face of it, she appears to have had work carried out that hasn't been to a high standard and has left her needing to carry out remedial works. But disputes of this nature are, in my view, clearly those which belong in the civil, rather than criminal, courts.

As far as I can establish, B is an active company, nobody involved in it has attempted to conceal their identity and Barclays has no concerns about the way any of the accounts involved have been run. I can see from Miss K's correspondence with B, that its representative visited her property numerous times over a number of months. It's undisputed that a significant amount of work has been carried out and that B continued to communicate with Miss K after the payments were made and she asked for a refund.

As Miss K herself suggests in some of the correspondence, it might be that B took on too much work and started to cut corners, but that's very different from a finding that B set out to deceive Miss K and never had any intention of completing the work to a satisfactory standard.

Turning to the points Miss K has raised in response to our Investigator's view, it's first important to state again that Barclays has no obligation to protect Miss K from a bad bargain or potential civil dispute. So, I can't say that it made a mistake by failing to question the payments and it can't be held responsible for any losses that might have been caused by not having done so.

Regarding two of the recipients not being a 'legitimate supplier of goods', I think this has little relevance to the finding I've made. I can only imagine that Trading Standards are simply saying that they can't investigate someone who isn't actually a provider of goods or services.

But Miss K's agreement was with B, not the individual recipient of the payment. Miss K has a receipt from B for at least one of the payments and I've seen no evidence to suggest that both payments weren't made at the direction, and for the benefit of, B. Miss K communicated with the director of B and it does not appear he ever denied having received the payments or that the person she'd previously been dealing with was authorised to act on B's behalf.

So, I don't find that the fact she was instructed to pay, and largely communicated with, someone other than the director of B, demonstrates fraud.

Overall, it is for Miss K to demonstrate that B was acting fraudulently and there's very little, if any, evidence which is consistent with that finding. I'm satisfied that Miss K has a civil dispute with B.

Finally, I understand Miss K's frustration at not being advised she could raise a complaint, but I don't think Barclays made an error in this regard. I'd only expect it to explain the complaints process if Miss K made an expression of dissatisfaction with it (rather than B). I can't see that she would have had any cause to be unhappy with Barclays until after it declined her claim. It was for her to make Barclays aware of her dissatisfaction following the outcome it provided.

My final decision

For the reasons I've explained, I do not uphold this complaint.

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

Rich Drury
Ombudsman