

The complaint

A company which I'll refer to as C, complains that Barclays Bank UK PLC ("Barclays") won't refund money that was stolen from their accounts.

Miss P, who is a director of C, brings the complaint on C's behalf.

What happened

Miss P says that while she was away on holiday, the bookkeeper for C transferred nearly £135,000 out of two accounts held by C without her knowledge. I'll refer to the bookkeeper as D.

On discovering the loss, Miss P made some enquiries to see if the money had been moved for legitimate reasons. But being unable to find a reason for the transfers, she confronted D.

D told Miss P she'd used the money to invest in cryptocurrency but found out she'd been the victim of a scam. D had expected to return the money to C's bank accounts before Miss P returned from her holiday.

Miss P says the loss of the money has had a devastating impact on her business and her own personal wellbeing. As a result, she wasn't able to pay the staff wages and it's caused her immense distress.

Miss P informed Barclays of the situation and asked them to refund the money D took from the accounts, but Barclays declined to refund the money. They explained that as D was authorised to complete the transactions under the account mandate, they consider this a civil dispute between the parties.

Miss P didn't agree with Barclays' findings, so she brought a complaint to our service.

An investigator looked into C's complaint but didn't uphold it, saying Barclays hadn't done anything wrong in following the payment instructions, as they were made by an authorised signatory to the accounts. They explained that the account mandate (which applied to both accounts) said either of the signatories, Miss P or D, could authorise transactions.

Miss P disagreed with the investigator's opinion, raising the following points:

- The investigator incorrectly said that Barclays called D when one of the payments failed.
- When the payment failed, Barclays should've contacted her as the account holder.
- Miss P usually gets a text message requesting authorisation for a failed payment, but that didn't happen in this case.
- The transactions D made were suspicious.
- D was only authorised to make invoice payments.

- Due to Barclays' poor security on C's account, C is entitled to a refund.

Following Miss P's response to the view, the investigator requested some further information from Barclays and responded to some of the points Miss P made. The investigator said:

- Barclays confirmed that if a payment fails, they'd contact the signatory making the payment – which in this case was D – not the account holder.
- Barclays didn't call D. D called Barclays when one of the payments she was making was blocked.
- The mandate on both accounts said that either Miss P or D could authorise transactions on the account.

As the case couldn't be resolved, it was passed to me to review.

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 bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account. But a bank also has to be on the lookout for, and help to prevent payments, that could involve fraud or be the result of a scam. So, there are situations where we would expect banks to identify a scam risk and intervene, and in some cases expect the bank not to follow the customer's payment instruction.

C's main business account

From what I've seen, Barclays didn't have concerns or block any of the payments made by D as potentially suspicious or out of character until the payment on 11 March 2022 for £10,000. In response to this payment being blocked, D called Barclays to release it.

Having reviewed the previous account usage I'm not satisfied that Barclays should've identified a potential scam risk and intervened on any of the payments D made from the main business account and I'll explain why.

Most of the payments D made were for between £5,000 and £20,000 and were made over a 14 day period. Previously the account had been used for a genuine payment of over £14,000 to HMRC and a funds transfer of £7,900. Also, this was a business account, so large payments and multiple payments on a single day weren't unusual. For example, the day that staff wages were paid there would be over 15 payments all made on the same day totalling in excess of £15,000. Taking all of this into consideration, I'm not satisfied that D's payments on this account were so unusual that Barclays should've had concerns and intervened before processing the payments.

However, Barclays did block the payment on 11 March 2022, so I've listened to the call and considered the information that was available to them.

During the conversation, D provided what seemed like a plausible reason for the payment, saying she was buying a car. Also, I can see that the funds were being transferred to an existing payee that had previously been used for genuine payments. There wasn't anything said in the call with D that I feel should've concerned Barclays about the payment. So, I'm not persuaded that Barclays acted unreasonably in releasing the payment.

C's secondary business account

Having looked at the statement for the second business account, I think Barclays should've had concerns and blocked the first payment D made, which was for £25,000. This payment was made a few days prior to the payment they blocked on 11 March.

I say this payment should've flagged as being suspicious because there had been little use of this account, with only one payment made a few days before for £5,000. Prior to that, the account had been inactive for over six months, with only credit interest being paid in.

But, in these circumstances, I'm not satisfied that if Barclays had intervened that it would've made a difference. I say this because the funds were being transferred between C's accounts and not to an external payee. And I think that if Barclays had stopped this payment, D would've called them and provided a similar story to the one she provided a few days later when the payment on the other account was blocked. As I've already explained I'm not persuaded that Barclays should've been concerned based on the conversation they did have with D, so I can't fairly say they would've identified a scam risk and stopped this payment if they'd intervened.

All of the subsequent payments made from C's second account were for less than the first payment, although there were three payments made for £10,000 each on the same day. However, they were made a couple of days after the first payment and were split across two separate payees. And considering the size of the first payment and that two of these payments were transfers to C's main business account, I'm not satisfied that any of these further payments should've been identified as potentially suspicious by Barclays or warranted further intervention.

An important consideration in deciding whether Barclays has acted reasonably in the circumstances of this case, is that the mandates on both of C's accounts, were set up with either D or Miss P as authorised to operate the account. There weren't any limitations on the mandate as to what type of transactions either D or Miss P could make. So, all of the payments that D made were in line with the mandate.

Miss P has raised a concern that Barclays didn't contact her when they flagged the payment on 11 March. However, I don't think Barclays acted unreasonably in talking to D, as an authorised user on the account, or by releasing the payment based on what D told them. Overall, I'm not satisfied that I can fairly say Barclays should've contacted Miss P about the payments.

I appreciate that Miss P has lost a substantial amount of money, which has had a serious impact on her business and caused her distress. But, having carefully considered everything, I can't fairly say that Barclays acted unreasonably in following D's payment instructions in these circumstances. On that basis, I can't fairly ask them to refund C.

My final decision

My final decision is that I don't uphold this case against Barclays Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask C to accept or reject my decision before 8 August 2023.

Lisa Lowe
Ombudsman