

## **The complaint**

Ms C is unhappy that Barclays Bank UK PLC hasn't refunded her after she fell victim to a scam.

## **What happened**

The background to this complaint is well-known to both parties. And so I'll provide a summary of what has happened, rather than going into the full detail.

In March 2023 Ms C was looking for work to supplement her pre-existing income. She wanted to work from home so she could be with her young son. After searching online, she came across a company offering an opportunity that seemed to suit her needs.

The premise was that Ms C would be sent links that would take her to an online shopping basket with items already in it. She'd then pay for the items and within a few minutes would receive reimbursement plus commission. Ms C didn't know at the time, but this was a scam.

Ms C made her first payment on 16 March 2023. She used her debit card for a £40 transaction. She then went on to make 14 more payments. The last was made on 30 March 2023. Most of these were card payments, but some were faster payments (bank transfers). Ms C has said she sent the faster payments because she'd ordered a new card. She's also said the payments went to friends and family so that they could complete the online purchases for her.

Ms C says she knew something was wrong when she realised she'd made several payments at the scammer's instruction but hadn't received the promised reimbursement. She first contacted Barclays to report the issue on 24 March 2023 and it began to investigate.

Barclays provided Ms C with a temporary refund of the disputed card payments. But it later reversed this, saying Ms C had been the victim of a scam rather than fraud. It continued to investigate and said it wouldn't refund the card payments as they'd been properly authorised by Ms C.

Ms C had sent some of the payments after reporting the scam to Barclays. She's said she did so as she was desperate to recover her money. And she's also said that because Barclays had told hers wasn't a case of fraud, she thought she was safe to keep making the payments the scammer instructed her to make. She later reported these other payments to the bank. But Barclays said it wouldn't refund those either. Ms C was unhappy with Barclays' response and so brought her complaint to our service.

One of our investigators considered what had happened and found Barclays had given a fair and reasonable answer to Ms C's complaint. The key findings were that:

- the transactions (both card payments and bank transfers) never appeared so out of character or unusual that they presented what Barclays ought to have considered a scam risk or a risk of financial harm;
- there was no prospect of a chargeback succeeding in respect of the card payments;
- Ms C didn't hold a reasonable basis for believing that she was engaged with legitimate parties for legitimate purposes. This was important as it's an exception to reimbursement set out in the Contingent Reimbursement Model (CRM) Code (I'll talk more about this later).

Our investigator noted Barclays had offered Ms C a total of £220 in compensation for service issues whilst it investigated her complaint. She thought that was fair and reasonable in the circumstances. She understood Ms C wanted a particular phone call listened to. But we didn't have it on file at the time and the investigator didn't believe it would affect the overall outcome of the case, given it took place after the scam had already occurred.

Since the complaint was brought to us Ms C has also said she's unhappy with Barclays' decision to close her account. Our investigator noted that a formal complaint hadn't been raised with Barclays on this subject.

Ms C didn't accept the investigator's findings and so the complaint has been 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.

I'm sorry to hear Ms C has been the victim of a cruel scam. This has understandably left her shaken and distressed. She's also been left in financial difficulty as a result. I do sympathise with the position she's in, but my findings must be based on the events that are the subject of the complaint, rather than Ms C's current circumstances. With that in mind, I must tell Ms C I'm unable to uphold her complaint. I'll explain why below and, in doing so, I may not address every point raised by Ms C. I may not refer to everything that has happened. But I have considered all the information and evidence we have on file in reaching this outcome and have covered what I consider to be the key points below.

There's no dispute that Ms C has fallen victim to a cruel scam. Nor is there any dispute that Ms C authorised the payments that are the subject of this complaint. That being the case, the starting position is that she is presumed liable for those payments. The relevant rules are set out in the Payment Service Regulations (2017) and are confirmed in Ms C's account terms and conditions. That liability position remains the same even where a customer has been tricked into making payments, as Ms C was.

But that isn't necessarily the end of the story. It's accepted good industry practice that account providers like Barclays monitor accounts for suspicious or unusual activity. They do so, at least in part, to try and stop customers falling victim to scams. Where an account provider identifies a potential risk of financial harm to a customer it might stop a payment to ask some questions about it and, where appropriate, give warnings about relevant scams. So there is a question as to whether that's something Barclays ought fairly and reasonably have done in Ms C's case.

Industry best practice about monitoring accounts and giving warnings about scams crosses all payment channels, including card payments and bank transfers. But the latter also attracts the protection of the Lending Standards Board's voluntary CRM Code, to which Barclays is a signatory. It's in place to see the victims of authorised push payment (APP) scams reimbursed in most circumstances. But it only applies to some bank transfers; it doesn't apply to card payments.

I mention it at this stage as part of the Code sets out the expectations on firms like Barclays in terms of flagging suspicious looking payments and delivering warnings. These expectations are set out in the 'standards for firms'.

Whilst there is some difference in the relevant considerations for the card payments and bank transfers, my findings, and reasons for them are broadly the same. That's because I don't find the payments made, either individually or cumulatively, ever give rise to a spending patterns or series of transactions that I believe Barclays ought to have identified as a scam risk or a potential cause of financial harm to Ms C.

I appreciate the money lost to the scam is significant to Ms C. But I don't find it would be fair and reasonable to say the payments ought to have stood out as concerning to Barclays. Which means I find it acted fairly and reasonably in not asking Ms C about them.

From what I can see, it looks like there was actually one intervention from the bank. This was on 30 March 2023, when Ms C was trying to send another £280 by faster payment. The evidence shows she was asked about the purpose of the payment and she told the bank she was lending money to her friend. Barclays looks to have been concerned by her answer and the account activity at the time. It blocked her account. It looks to be the last transaction connected to the scam. So where Barclays did intervene, it looks to have done all I'd expect it to.

I've little more I can say in respect of the card payments. As they were authorised and there was no reason for the bank to question the payments there's no fair and reasonable basis on which I could say Barclays ought to refund them. Our investigator explained to Ms C that a chargeback through the applicable card scheme would never have succeeded. That's because Ms C made the payments herself and knew where the money was going. That is correct and I can't see that any attempted chargeback would have had any reasonable prospect of success. So Barclays was right to not attempt one.

The final consideration for the bank transfers falls under the aforementioned CRM Code. Along with the expectations of firms, the Code also sets out some exceptions to reimbursement that an account provider can rely on to deny reimbursement of a scam loss. Of relevance here is the exception that can be presented in the form of a question: did Ms C hold a reasonable basis for believing she was dealing with legitimate parties, for legitimate purposes?

Barclays has relied on this exception to deny Ms C a refund of the bank transfers. I find it's done so fairly and reasonably. The key points are summarised below:

- I don't find the employment proposition put to Ms C to be a likely or realistic opportunity. There's little to suggest why or how Ms C would actually earn money from making purchases on someone else's behalf. How commission of 10-20% per transaction would be generated is very unclear.
- Ms C doesn't appear to have undertaken any research into the individuals or companies she believed she was dealing with. It seems there was little to confirm any of these parties were genuine or could offer what they were promising.
- Ms C had to provide only her name and age on signing up. There was no contract, no terms and conditions, and no employee verification process.
- The company failed to deliver on its promises to pay Ms C, and yet she continued to make payments
- Ms C reported the scam to Barclays. But she then went on to make more payments. She's previously said she did so because she was desperate to recover her money. I can appreciate she felt desperate, but that doesn't give a reasonable basis for believing everything was legitimate.
- Ms C has also said that she continued because Barclays said it wasn't a fraud after she reported it. I'm not persuaded that is the case, given the previous point and what she's said before. And, even if it were true, I wouldn't find that to have been a reasonable position to take, given what she already knew about the scam.

Having thought about all the relevant considerations for Ms C's complaint I can't see that Barclays has acted unfairly or unreasonably in declining to reimburse her loss.

I've listened to the call Ms C asked our investigator to consider. There's nothing within that call that leads me to believe my findings should be different.

There are a couple of other issues for me to comment on before I conclude this decision. The first is in relation to the possible recovery of Ms C's funds that were sent by bank transfer.

I've already explained why the card payments were irrecoverable. But when a scam is reported an account provider is expected to try and pursue the funds that were lost by contacting the receiving banks.

The evidence isn't entirely clear in revealing exactly what Barclays did or didn't do here. But I'm satisfied that there was no prospect of recovering the money in any case. I say as much because the evidence we have from the bank's the money was sent to shows it was moved on almost immediately. So there was no prospect of recovery.

Furthermore, Ms C has said the bank transfers went to friends and family that were helping her. That being the case, and Barclays having been told as much, I'm not sure there are grounds for seeking to recover the money anyway. Ms C would be better placed to speak to anyone she knew about returning any money that was still available.

Next is the matter of Barclays closing Ms C's account. It doesn't appear this has been considered as a formal complaint by Barclays and so it wouldn't be right for me to comment on it in any detail. I certainly make no findings on the matter. But I can see that my colleague spoke with Barclays about the account closure issue, and it said it wouldn't look to change its position. It's then for Ms C to decide if she wishes to pursue this further if she hasn't already.

The third matter is that of the compensation offered by Barclays. Whilst this wasn't accepted by Ms C initially my understanding is that she's since contacted Barclays to ask that it be paid to an external account. I'm then satisfied she has now accepted that compensation and so I won't be making further comment on it.

Finally, I'm aware that Ms C has said she's in financial difficulty and will struggle to repay what she owes Barclays. The debt position has arisen as a result of Ms C spending the temporary refund applied by Barclays. When the bank reversed that credit she was left overdrawn.

Barclays might have misclassified the dispute originally, where it said it was a fraud rather than a scam. But overall, it doesn't seem Ms C has been left out of pocket as she did benefit from the funds she spent. And it seems Barclays made clear the credit was temporary, and that an unsuccessful claim would mean the credit was reversed. Ms C might have expected for her claim to be successful. But Barclays had told her that might not be the case and what the implications of that would be. I can't then say Ms C shouldn't now have to repay that money.

What I would expect is for Barclays to treat Ms C positively and sympathetically in terms of the debt being repaid. But it's also important that Ms C engage with Barclays to agree a solution.

### **My final decision**

I don't uphold this complaint against Barclays Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 6 February 2024.

Ben Murray  
**Ombudsman**