

The complaint

Mr W complains that Barclays Bank UK PLC won't refund money he lost when he fell victim to a scam.

What happened

In June 2020 Mr W fell victim to a scam.

The background to this complaint is well-known to both parties, so I won't repeat it in detail here. But in summary and based on the submissions of both parties, I understand it to be as follows.

Mr W was looking to buy a van and saw one that interested him advertised for sale by a private seller on a social media online marketplace. He's said the seller had good reviews, and recalls seeing that they had around 13 reviews with 100% feedback. Mr W has also said that he had successfully used the particular social media marketplace before to make purchases.

Mr W contacted the seller, who he has said was able to speak in detail about the history of the van. He's also told us he completed a HPI check, which he's said came back clear. Mr W says he also asked to view the van, but the seller explained he was unable to arrange a viewing straight away, due to being away from home running errands for his elderly mother, who was shielding at the time due to Covid.

The seller told Mr W that there was another party interested in purchasing the van, and said if Mr W wanted to secure it, he would accept a refundable deposit and Mr W could then view it the following day, when he could then either make the purchase or have his deposit refunded.

Mr W has told us that he had been looking for a van for a few weeks and he's said this van was in the price range he was looking for. However, other vans that he'd seen included VAT as the vans had been used for commercial purposes, which had pushed the price up and put them out of his range. Mr W explained this van, due to it being for private use, didn't have the additional VAT added on.

Mr W has said he also spoke with a friend, who has owned a car dealership for several years, regarding the van, who told him that the price he was being quoted was about right and confirmed the history of the van as per what he had seen on the HPI check. Mr W also recalls that when he carried out the HPI check he received a valuation for the van. Due to the time that has passed Mr W has said he no longer has this and cannot remember the exact figures, but he recalls a quote of between £5,800 and £8,000 depending on various factors (mileage, condition, current trade/forecourt prices etc.).

Mr W and the seller agreed a price of £5,950 for the van. Satisfied with what he had heard from the seller and with the checks he had carried out, Mr W went ahead and made a bank transfer payment for £3,000 on 9 June 2020 as a deposit, to the bank details provided by the seller (which the seller explained were his wife's bank account details).

Later that day, Mr W received a further call from the seller, who explained that the other interested party, who he had mentioned previously, had secured a bank loan to purchase the van and was willing to buy it straight away for the full amount. The seller told Mr W that he felt guilty as the other party had taken out the loan. But he told Mr W that if he wanted to pay the outstanding balance straight away, then he could still have the van – or alternatively he would refund him his deposit. Mr W agreed to pay the remaining balance and went ahead and made a payment of £2,950 from his savings account. Mr W has said he then arranged for the van to be insured, ahead of viewing and collecting it the following day.

As arranged, the following day, Mr W went to collect the van, but on arrival at the address he had been given, there was no van. He realised at this point that he had been the victim of a scam.

Realising he had been the victim of a scam Mr W contacted Barclays. Barclays contacted the receiving bank (the bank who the money was sent to) and was able to recover £2,975 of the money Mr W had paid, which it returned to Mr W. It also considered whether it ought to refund Mr W for the remainder of his loss.

Barclays is a signatory of the Lending Standards Board Contingent Reimbursement Model (CRM Code) which requires firms to reimburse customers who have been the victims of APP scams like this in all but a limited number of circumstances. Barclays declined to refund Mr W the remainder of his loss, as it says one or more of those exceptions applies in this case. In summary, Barclays said that Mr W ignored an effective warning and didn't have a reasonable basis for believing the payment to be genuine. It did however recognise that the service it offered Mr W could have been better and for this it offered £200 as a gesture of goodwill.

Mr W then brought his complaint to our service and one of our investigator's looked into things. She didn't agree that Mr W had ignored an effective warning. In summary she said this because she didn't consider the warning would have been impactful in the specific circumstances of this case. Our investigator also didn't think it had been established that Mr W didn't have a reasonable basis for believing he was making a payment to a legitimate seller. It was our investigator's view that Barclays should refund Mr W the remainder of his loss. Our investigator also considered the £200 that Barclays had paid Mr W for the poor service was fair considering the circumstances.

Barclays disagreed with our investigator's view. In summary it still considered the warning it gave Mr W was relevant and it considered the price Mr W had paid for the van was too good to be true. It felt Mr W had been negligent and failed to complete important necessary checks around the price of the van.

As no agreement could be reached, the complaint has been passed to me for a 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 am satisfied that:

- Under the terms of the CRM Code, Barclays should have refunded the money Mr W lost. I am not persuaded any of the permitted exceptions to reimbursement apply in the circumstances of this case.

- The money was taken from Mr W's current and saving's accounts and I'm satisfied he's been deprived of money he was going to use to purchase a van, so the firm should also pay interest on the money it should have refunded at 8% simple per year from the date by which Barclays should have provided a refund under the CRM Code to the date of payment.

I'm very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service.

I have carefully considered Barclays' representations about the warning it gave and whether the consumer had a reasonable basis for believing the transaction to be genuine. But they do not persuade me to reach a different view. In particular I am not persuaded that Mr W failed to take the requisite level of care required for Barclays to choose not to reimburse under the terms of the CRM Code. I'll explain why;

Effective Warnings

Barclays has said Mr W would have seen the following warning after selecting the payment was for 'buying goods'

"Could this be a scam?"

Are you sure the company/seller is genuine and website is secure? You should take time to check this, and whether the goods you want to buy are genuine as well. If a deal sounds too good to be true, it often is.

Remember that paying by debit or credit card will provide you with more protection than paying by bank transfer. Fraudsters can also use current news topics, like COVID-19, to play on your emotions and ask you to make purchases or move your money. It's best to talk to someone you trust before proceeding."

Under the provisions of the CRM Code, as a minimum, an "effective warning" needs to be understandable, clear, timely, impactful and specific. It must also provide information that gives customers a better chance to protect themselves against being defrauded and should include appropriate actions for customers to take to protect themselves from APP scams.

The CRM Code sets out minimum criteria that a warning must meet to be an 'effective warning'. In very broad terms, it requires that a warning will be capable of countering the typical features of the generic scam type identified during the payment journey. The warning Barclays gave does, at least in part, appear directed at the prevention of scams whereby a customer is making a purchase and where they may be buying something at a discounted price. But I don't find the warning meets the CRM Code's minimum requirements of an 'effective warning'. I say that because;

- The warning doesn't bring to life or warn the consumer sufficiently the risks of buying goods online. Such as that criminals will post fake advertisements and will ask for payment upfront.
- I don't think the warning would have been impactful to the consumer as they had successfully purchased from the marketplace previously and had contacted a trusted person before going ahead with the payment.

- An effective warning should enable the customer to understand what actions they need to take to address the risk and the consequences of not doing so. This warning mentions that the customer should check that the goods are genuine, but provides no specific actions a customer or Mr W could have carried out to check that the goods and seller were genuine.
- The warning did include a suggested step that the consumer could take to protect themselves, in that they could pay by debit or credit card, but these didn't apply in the specific circumstances of this scam as they weren't a payment method that was available.
- The warning doesn't clearly set out the consequences of not taking the suggested steps in the warning. For example, setting out that the transaction will be irrevocable, and that if it proves not to be legitimate this will likely mean the funds cannot be recovered.

So, I'm not satisfied Barclays' warning met the requisite criteria here. Overall, I don't consider the warning given was an effective warning as defined by the CRM Code. It follows that Barclays has not established it can fairly apply the exception to reimbursement relating to 'ignoring an effective warning'.

Did Mr W have a reasonable basis for belief when making the payments?

I have carefully considered Barclays' representations that Mr W did not have a reasonable basis for believing he was making payments to a genuine source, but they do not persuade me to reach a different view. In particular, I'm not persuaded Mr W failed to take the requisite level of care required for Barclays to choose not to reimburse under the terms of the CRM Code.

Barclays has placed a lot of emphasis on the price of the van and how it considers that this was too good to be true and ought to have led Mr W to have been more diligent before proceeding. I can appreciate - especially with the knowledge that this later transpired to be a scam - that the advertised price for this particular van was lower than other van's that Barclays has indicated in its representations.

I accept that a low price can be an indicator that a situation is not what it seems. But a potentially low price isn't in and of itself sufficient for me to conclude that Mr W didn't have a reasonable basis for belief. When I consider the price in the round and with the context of the steps Mr W took and the specific circumstances of the case, on balance I'm persuaded that he did have a reasonable basis for belief. I say that because;

- At the time Mr W considered the price to be what he was expecting to pay. The price was broadly in line with other vans that he had previously seen, but with the benefit, that due to the nature of the van's usage, he wouldn't have to pay VAT on this particular van.
- Mr W says he was given a valuation quote at the time he obtained a HPI check, which quoted a price range, with the sale price falling within that range. Importantly, Mr W also sought the advice of a friend who owned a motor dealership and who had many years' experience in the trade. I'm persuaded it was reasonable for Mr W to trust his friend's opinion, who had more experience in these matters, that the price seemed about right.
- Generally speaking, a seller can set a price that they are comfortable with, which

doesn't necessarily have to be the item's market value. A seller might well be motivated to accept a lower offer than what an item might typically be worth if they need a quick sale. There will be occasions where I think it would be reasonable for a consumer to ask further questions about the price of an item before proceeding. But given the specific circumstances of this complaint and what I have said earlier, I can understand why Mr W didn't think to question the seller further about the price of the van. As, with the context of; the van appearing to be in the range of other van's he'd been looking at, the confirmation from somebody in the trade that the price seemed about right and with the HPI check giving the van in the same range, I can understand how it fairly and reasonably wouldn't have appeared to Mr W at the time that the price was low enough to give him cause for concern.

- Mr W found the car advertised on an online marketplace. Marketplaces are an increasingly common way for private sellers to sell items and Mr W had purchased items from the marketplace successfully before. Which I think reasonably added to his belief that this was a legitimate sale. Particularly so here given Mr W recalls seeing that the seller had positive feedback.
- Mr W has explained how the communications he had with the seller seemed genuine. They were able to speak clearly about the vans history and didn't appear to put pressure on Mr W.
- Mr W was asked to pay a deposit, which is not untypical when purchasing a vehicle. And I can understand why Mr W wasn't concerned by paying this, given he was under the impression that if he didn't want to proceed, he would have been able to have received a full refund.
- I'm satisfied that Mr W was given a plausible reasons as to why he couldn't view the van. Given the circumstances at the time, with the pandemic, I think it was reasonable for Mr W to believe that that the seller was taking care of an elderly relative and so an earlier viewing wasn't feasible.

Overall, Mr W has explained that he proceeded with the transaction after being satisfied with the communication with the seller and after he'd undertaken his own research. People don't want or expect to be scammed and I think Mr W took reasonable and appropriate steps to try and protect himself before making the payment. I'm persuaded he had a reasonable basis for believing that the payee was the person he was expecting to pay; the payment was for genuine goods or services and the person with whom he transacted was legitimate.

Mr W was also unhappy with how Barclays progressed his complaint. Barclays has acknowledged that there were delays and a lack of communication and paid Mr W £200 in recognition of this. I think this is fair and reasonable under the circumstances and in line with what I would have expected it to pay.

With all of the above in mind, in light of all the circumstances here, and in line with the requirements of the CRM Code, I'm not satisfied Barclays has been able to establish that when Mr W sent the payments, he did so without a reasonable basis for belief.

Putting things right

The Code explains that where a customer has met their requisite level of care (which as I've explained, I'm satisfied was the case here) they should be refunded all of the money that was lost. So, I think it's fair that Barclays should now;

- refund the money Mr W lost, less any funds already recovered (being £2,975)

- pay interest at the simple rate of 8% per year on that amount (less any tax properly deductible) from the date Barclays declined Mr W's full claim under the CRM to the date of settlement.

My final decision

For the reasons set out above, my final decision is that I uphold Mr W's complaint against Barclays Bank UK PLC and order it to pay the redress I have indicated above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 27 May 2022.

Stephen Wise
Ombudsman