

The complaint

Ms M complains that Barclays Bank UK PLC ('Barclays') refused to refund the £4,100 she lost when she fell victim to a scam.

What happened

In March 2019, Ms M made a £4,100 transfer from her Barclays Individual Savings Account ('ISA') using her online banking facility. She thought she was making the payment to a holding company to facilitate the purchase a car, but later found out she'd been the victim of a scam and had actually sent her money to a fraudster.

Ms M told Barclays what had happened and asked it to refund the money. But the bank didn't think it was liable for her loss. However, it was able to recover £10.64 from the beneficiary bank. Unhappy with this, Ms M raised a complaint with Barclays. She was also concerned with the steps it took to contact the beneficiary bank, after she'd made it aware of the scam.

Barclays said:

- Ms M willingly made the payment and so it wasn't responsible for her loss.
- It did everything it was supposed to do after being made aware Ms M had been the victim of a scam. This included contacting the beneficiary bank in good time to see if could recover any of her money. But only £10.64 remained.
- The £4,100 payment was picked up by its fraud detection system. Because of this, it contacted Ms M before the payment was released and made her aware of potential scams. But Ms M still wanted to go ahead with the payment.

Ms M remained unhappy and referred a complaint to this service. But our investigator didn't think Barclays should have reasonably been expected to prevent the fraud. Ms M didn't agree and asked for an ombudsman's review and decision. Prior to this final decision, I issued a provisional decision to the parties in which I said that I intended to uphold Ms M's complaint. Ms M agreed with this, although Barclays didn't.

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 my provisional decision, I said:

'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 their account. And I've taken that into account when deciding what is fair and reasonable in this case.'

However, taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider NatWest should, fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including money laundering, the financing of terrorism, and fraud and scams.*
- Have had systems in place to look out for unusual transactions or other signs that might indicate its customers were at risk of fraud (among 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.*
- 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 need to decide whether Barclays acted fairly and reasonably in its dealings with Ms M when she made the transfer using its online banking platform, or whether it should've done something more.

The disputed payment and Ms M's interaction with Barclays

It's not in dispute that Ms M authorised the transfer, even though she had fallen victim to a scam. She intended to send the money to the account details she had been provided and as I've already set out, Barclays had an obligation to follow her instructions. But I think as a matter of good practice Barclays should also have been on the lookout for unusual and out of character transactions.

With that in mind, I'm pleased to see that Barclays did pick up on the transaction Ms M was attempting to make. The £4,100 payment attempt triggered its fraud detection system as it was an unusual transaction based on her usual ISA activity. It sent Ms M a text and she then called the bank and confirmed the payment was one that she was trying to process to purchase a car.

During this call she said:

- She only ever transferred money between her ISA and her current account. But this time she wanted to make the payment directly. The payment was to a holding company for a car she was buying.*
- She hadn't received the car yet. But once the company received the money, it would ship the car over.*
- She hadn't seen the car in person. Her partner had looked into it and there was a 5- day turnaround where she can accept or reject the car after it had been delivered. If rejected she can receive a refund. Ms M said it looked legitimate.*
- The company she was paying was based in England.*

The advisor at Barclays said she had come across similar scenarios where they had turned out to be a scam. But after advising Ms M of this, and after explaining that if this did turn out to be a scam, it would be very difficult for Barclays to recover the money for

her, Ms M was still satisfied that she wanted to go ahead. As a result, the advisor at Barclays removed the temporary restriction that had been placed on the payment and Ms M's online banking facility, and the money was promptly released to the intended beneficiary (the scammer).

Once Ms M had confirmed that was a genuine payment I can see, to an extent, why the bank allowed the payment to be made. But, I don't think the Barclays advisor went far enough to warn Ms M of the risk she was taking by making a £4,100 to a 'holding company' for a car she'd never seen before. The Barclays advisor said she'd seen similar scenarios in the past that had turned out to be a scam, but didn't elaborate on this. I accept that people use shipping companies to buy and sell vehicles, but this is also a common scam, and the circumstances relevant to Ms M should've raised alarm bells. I think this was an opportunity for the Barclays advisor to question Ms M further than she did during the call.

I'm satisfied that this type of scam – an advanced payment scam – was well-known to banks at the time Ms M made this payment. In my judgment, Barclays should have done more here. In my judgment the advisor should have asked more probing questions such as whether she had purchased a car using this process before, how she was satisfied that the payment details were for the genuine holding company, and what checks she had done to satisfy herself that the transaction was genuine.

I've thought carefully about whether Barclays asking Ms M these kind of questions would've made a difference in this case. Having done so, it's my belief that had Barclays asked proportionate questions and given Ms M a detailed warning about advance payment scams, she wouldn't have made the payment.

Had the Barclays advisor questioned Ms M further, I don't think she would've gone ahead with the payment. Ms M has said that that the bank flagging the transaction as suspicious raised alarm bells, and her partner called two days after it was processed as he was very concerned they had been the victim of a scam. At the time, Barclays advised them to wait another few days to see if the car arrived, and if it didn't, to call back and raise the matter as a scam. This call shows that Ms M and her partner had a level of doubt about the purchase, and on balance, I think this level of doubt would've been greater had the Barclays advisor gone further with her questioning during the call before the payment was released – and in educating Ms M about how these kind of scams work.

Recovering Ms M's money

The Payment Service Regulations 2017 say a payment service provider, in this case Barclays, should notify receiving banks about potential fraud 'immediately'. Ms M has raised concerns that she called Barclays two days after the payment was made and was told to wait another three days to see if the car arrived. When it did not, she called the bank again and it agreed to treat the matter as fraud. It was at this point it made contact with the beneficiary bank in an attempt to recover any remaining funds for Ms M.

Ms M feels the bank should've taken action straight away, and shouldn't have told her to wait a further three days to see if the car arrived. I agree with Ms M that the bank gave poor advice here, and I can see why she feels the bank could've prevented some of her loss if it had contacted the beneficiary bank sooner than it did.

Our investigator has obtained evidence from the beneficiary bank to show that even if Barclays had taken action on the second day, unfortunately this wouldn't have made any difference to the outcome, as almost all of the money had been removed from the

beneficiary bank by this time. It's a common tactic for those engaging in fraudulent activity to remove money from the receiving account as quickly as possible, before the victim of fraud realises what has happened. And, it seems that by the time Barclays contacted the beneficiary bank, only £10.64 of Ms M's money remained.

I have also considered whether Ms M should bear some responsibility for her loss. However, it is clear that up to and including the time of authorising the payment, she was still totally in the dark and simply did not appreciate what she was doing – she thought she was making a legitimate payment to a genuine business to facilitate the purchase of a car. I am satisfied there was no contributory negligence on this occasion, Ms M was the unwitting and blameless victim of a clever fraudster. Barclays was the professional in financial matters; Ms M was a layperson.

However, taking all the circumstances into account, whilst I think Barclays wouldn't have been able to recover any of Ms M's money if it had taken action on the second day, I'm persuaded that Barclays didn't do enough to protect Ms M and that had it done so, her loss would've been avoided. So I am satisfied that Barclays should fairly and reasonably reimburse Ms M for the loss suffered without any reduction, together with interest at the rate of her ISA to compensate her for being deprived of the funds.'

In response to my provisional decision, Ms M agreed, but explained that she'd actually called Barclays the same day as the payment was made to express her concerns, rather than two days later as I'd noted.

Barclays disagreed, and said in summary:

- It feels its advisor used relevant and appropriate questions around both the company and the account Ms M was paying.
- Its advisor used probing questions around the purpose of the payment to ensure Ms M had researched the beneficiary and was happy for the payment to be released.
- Ms M explained her partner had researched the business and felt it was legitimate, and the bank trusted her word. Ms M was happy to go ahead with the payment despite warnings given.
- Ms M had multiple opportunities after her conversation with the bank and the warnings it provided to conduct her own research into the company and payment, but she was happy to solely rely on her partners findings.

I've thought carefully about Barclays' response. I appreciate its comments that its advisor did ask questions about both the company and the account Ms M was paying. I noted in my provisional decision that the Barclays advisor said she'd seen similar scenarios in the past that had turned out to be a scam – but I think she should've elaborated on this, and gone that step further to explain how exactly advanced payment scams work.

After all, such scams were well-known to banks at the time. And Barclays were the expert here, not Ms M (or her partner who carried out the research). Barclays have pointed out that Ms M was satisfied that the company and purchase were genuine based on her partner's research and was happy to go ahead with the payment as a result. But, I think Ms M

would've taken more notice of Barclays had it explained that fraudsters often pose as the genuine seller of a vehicle, commonly pretending to use the services of a holding company as a transport method, to trick innocent victims into parting with their money. The scenario Ms M was presenting to the Barclays advisor had common characteristics of such scam, including the fact that Ms M was making the payment to a personal, and not a business account. I don't think the questions that the Barclays advisor asked, or the warning she gave, were enough to cause Ms M to take a step back and carry out further research as Barclays suggests. But if the advisor had gone that step further, which I think would've been appropriate, I'm persuaded that it would've caused Ms M to pause on the payment. I believe in these circumstances she would have consulted with her partner about the information Barclays had given about this type of scam, and ultimately prevented her from going ahead with the purchase.

So, having considered all of the circumstances, I don't think my provisional findings need to change. And I adopt them in full in this final decision. I therefore think that Barclays should fairly and reasonably reimburse Ms M for the loss suffered, together with interest at the rate of her ISA to compensate her for being deprived of the funds.

My final decision

It's my final decision to uphold this complaint. I require that Barclays Bank UK PLC:

- Returns the £4,100 to Ms M (minus the £10.64 that it's already recovered from the beneficiary bank)
- Pay interest at the rate of her ISA account, from when the disputed payment was made, to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 14 December 2021.



Katherine Jones
Ombudsman