

Complaint

V, a limited company represented by Mr S, complains that Barclays Bank UK PLC didn't do more to protect it when it was targeted by a scam.

Background

The facts of this case are well known to both parties, so I'll only set them out briefly.

V has an account with Barclays. That account can be accessed by a small number of individuals, including an employee in V's finance team. In December 2020, that employee received emails that purported to be from Mr S asking for payments to be made in connection with V's business activities. The V employee made those payments as requested. Unfortunately, the emails hadn't been sent by Mr S, but by a scammer. In total, V made four payments to the scammer. The total value of those payments was just over £42,000.

When the V employee was authorising the first payment, she was asked to specify the payment purpose. She selected 'buying goods' and so the following warning was displayed:

"Could this be a scam?"

Are you sure the company/seller is genuine and the website is secure? You should take the 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."

With the other payments, she selected the option of 'paying an invoice' which meant a different warning was displayed. Barclays says she would've seen the following the warning:

"Could this be a scam?"

Was this invoice unexpected? Does it have new account details? Fraudsters have been known to intercept genuine correspondence, including text messages, and change the account details to their own.

That's why we recommend checking the details of where you're sending the money to in person. If you were contacted by phone to pay this invoice, use a different phone to call the company so the call can't be diverted."

When it came to light that these emails weren't legitimate, V notified Barclays promptly. The bank investigated but said it wouldn't pay a refund. It noted that:

- The emails that were sent by the scammer weren't sent from the director's actual email address and they didn't have an email signature at the bottom. If V's employee had checked more carefully, she'd have noticed this. The scam would therefore have been prevented.

- It had displayed effective warnings when V's employee had been making the payments. V's employee should've followed the advice in those warnings. If she'd done so, the scam would've been stopped.

V was unhappy with the response it received from Barclays and so it referred a complaint to this service. It was looked at by an Investigator who upheld it. The Investigator noted that, under the terms of the Lending Standards Board's Contingent Reimbursement Model (CRM) code, Barclays should reimburse V unless one of the code's exceptions applied. She didn't think any of the exceptions were applicable.

Firstly, she didn't think the warnings were sufficiently closely related to the circumstances of the payment and so couldn't have been impactful. Secondly, she was satisfied that the V employee who had been responsible for authorising the payments online had a reasonable basis for belief that she was making genuine payments on the instruction of the company director. This was a frequent task for this employee, and she followed the normal process the company would use for making outbound payments. She didn't think Barclays was reasonable in claiming that she should only have authorised the payments after verbally confirming payment details with the director.

The Investigator also said that the payments were out of character and indicative of a significant fraud risk. Barclays shouldn't have processed those payments without first clarifying with V whether there was any meaningful fraud risk.

Barclays disagreed with the Investigator's opinion for broadly the same reasons it had already set out. It did add that it thought the scam might have been a consequence of inadequate security measures at V and wanted to know what steps it had taken to address these. Because Barclays disagreed with the Investigator's opinion, the complaint has been passed to me to consider and come to a final decision.

Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The starting point in law is that V is presumed liable for any transaction it authorises. It did authorise the payments that are the subject of this complaint, albeit only because one of its employees had been tricked into doing so.

That's not the end of the story. Barclays is a signatory to the CRM code. This code says that firms should refund its customers where they fall victim to a scam like this one, except in a small number of circumstances.

The relevant exceptions to reimbursement are:

- where a customer ignored an effective warning given by the bank
- where the customer made payments without having a reasonable basis for belief that the person they were paying was legitimate.

Warnings

V has told us that warnings were displayed when its employee authorised these payments. The specific content of those warnings is described above. The CRM code says that for a warning to be an "*Effective Warning*" it must be (at a minimum) understandable, clear, impactful, timely and specific.

The warning given in connection with the first payment is plainly not relevant to the circumstances of the scam and so it's understandable that this didn't have any impact on the subsequent actions taken by V's employee. The second warning is more relevant, but I'm still not persuaded it's specific enough to meet the requirements of an Effective Warning. It begins by asking whether the customer was expecting an invoice. The implication is that the customer has been sent an invoice and asked to pay it.

But that isn't what happened to V. V's employee received an email purporting to be from Mr S asking her to make payments on the company's behalf. The scammer does make a reference to an invoice that will be sent later. But these payments were not made in response to an invoice, so I think it was reasonable for V's employee to not think it relevant to the circumstances of the payments.

Overall, I'm not persuaded that this was an Effective Warning as defined in the CRM code and so I'm not persuaded that this exception to reimbursement applies.

Reasonable basis for belief

On the face of it, these emails were sent to V's employee and looked broadly the same as a genuine email from the company director. Although the email address was different to the director's genuine one, it would've appeared in the employee's email client as if the email had been sent by the director. If she'd been exceptionally careful, she might have spotted the discrepancy in the email. However, the fact that she missed this discrepancy does not mean that she was careless.

V's internal process didn't depend on its employee verbally confirming the payment request with the director. It wasn't uncommon for the director to make ad-hoc requests for payments relevant to V's commercial activities and it was part of that employee's role to be responsible for payments to and from the company account. It's not unreasonable or uncommon for this role to be delegate to an employee and for the most senior director at the company to not be closely involved in each individual payment.

With two of the payments, V's employee was told that the account name she'd input didn't match that on the receiving account. But in respect of the first payment, this was simply that the account holder's full name hadn't been entered and, in respect of the second payment, the surname hadn't been spelled correctly. V's employee clarified this discrepancy before proceeding and so I'm satisfied that she acted reasonably.

Overall, I find that V's employee was reasonable in her belief that these emails had genuinely been sent by the company director. It therefore follows that her belief that the person she was paying was legitimate was also a reasonable one and so I don't think Barclays can rely on this exception to reimbursement either.

Final decision

For the reasons I've set out above, I uphold this complaint.

Barclays Bank UK Plc should:

- Pay V a refund of the money that was lost as part of the scam, less any money it was able to recover from the receiving accounts and any money it has already paid in redress.
- It should add 8% simple interest per annum to this sum calculated to run from the date it declined the claim under the CRM until the date any settlement is paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask V to accept or reject my decision before 23 June 2022.

James Kimmitt
Ombudsman