

The complaint

Miss A complains that Barclays Bank UK PLC (“Barclays”) won’t refund money she lost to an investment scam.

Miss A is being represented by a claims management company in bringing this complaint.

What happened

The detailed background to this complaint is well known to both parties, so I won’t repeat it again here. Instead, I’ll focus on giving my reasons for my decision.

The complaint concerns two faster payment transactions – £2,000 and £13,000 – which Miss A sent from her Barclays account in February 2022 in connection with an investment opportunity. She sent the funds to an account in her name with another payment service provider, before depositing them in her ‘trading account’ with a firm which she later realised was a scam.

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 agree with the conclusions reached by the investigator for these reasons:

- Under regulations and in accordance with general banking terms and conditions, banks should execute an authorised payment instruction without undue delay. The starting position is that liability for an authorised payment rests with the payer, even where they are duped into making that payment. There’s no dispute that Miss A made the payments using her security credentials, and so they are authorised.
- The payments Miss A made weren’t sent directly from her bank account to the scammer. Both payments were made via another account in her name with an electronic money institution which I understand she had control over. Under these circumstances, the Lending Standards Board’s Contingent Reimbursement Model (the CRM Code), which requires signatories such as Barclays to reimburse customers who are victims of scams like this one in all but a limited number of circumstances, doesn’t apply.
- While I find the CRM Code doesn’t apply here, that code is not the full extent of the relevant obligations that could apply in cases such as this. In accordance with the law, regulations and good industry practice, a bank has a duty to protect its customers against the risk of fraud and scams so far as is reasonably possible. If, in breach of that duty, a bank fails to act on information which ought reasonably to alert a prudent banker to potential fraud or financial crime, it might be liable for losses incurred by its customer as a result.

- I've looked at the operation of Miss A's account. I don't consider the first disputed transaction (£2,000) was particularly unusual or suspicious such that I think Barclays ought to have challenged that payment. But the second transaction (£13,000) on the same day was unusual for the account activity and, as I would expect it to, Barclays paused the payment pending further enquiries.
- The bank's system notes from the time show that Miss A was asked to call back to discuss the payment. And that concerns remained when she said the three £5,000 credits which she'd recently received were being sent to one of her accounts with another financial institution to pay for home improvements and a car purchase. Barclays restricted Miss A's online banking and asked her to visit a branch with identification for further verification. She did this the next day and confirmed that the explanation she'd given the agent was true; that she knew about the credits and was transferring the funds to one of her accounts elsewhere to use them for different purposes. Following this, Barclays reinstated Miss A's online banking and a subsequent payment attempt was duly executed.
- Miss A's representative submits that the bank's intervention didn't go far enough in this case. They argue that Barclays should have asked detailed questions about what improvements she was intending to carry out and asked to see an invoice. They believe the scam would have uncovered as Miss A didn't have any further details to give or a cover story to provide beyond the payment purpose. I understand the point Miss A's representative is trying to make. I appreciate that in some situations that line of enquiry might seem logical and reasonable. But having reviewed the circumstances of this particular case, I don't agree that Barclays ought to have questioned Miss A along the lines suggested by her representative.
- The reason I say that is because Miss A wasn't sending money to a third party or, unlike a different case which the representative has highlighted, making a cash withdrawal. She was sending the money to an account in her name that she had control over. I acknowledge it's unusual to see credits from three separate lenders in quick succession. So, it's right that Barclays questioned this when it made enquiries about the large payment she'd attempted to make. Given the amounts involved and in light of what her representative has said about her health, I find that Miss A's explanation was adequate and entirely plausible. So, I don't think the explanation Miss A gave Barclays for why she'd borrowed money from other lenders warranted further scrutiny as has been suggested. Given the above, I'm satisfied that in this case the bank's intervention went far enough. That means I can't fairly conclude Barclays should have done more to limit Miss A's loss resulting from the second disputed transaction.
- I've also thought about the recovery of funds once Barclays became aware of the situation. Banks are expected to contact the beneficiary bank and attempt to recall the payment as soon as they're notified of a scam. I'm satisfied that this is what happened here. But as we know, funds had already been removed from the other account as part of the scam. Unfortunately, there were no funds left for Barclays to recover.

In summary, despite my natural sympathy for the situation in which Miss A finds herself, I don't find that Barclays has acted unfairly or unreasonably. So, I won't be making an award against it.

My final decision

For the reasons given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 9 August 2023.

Gagandeep Singh
Ombudsman