

The complaint

Mrs V complains about Barclays Bank UK PLC trading as Barclaycard.

She says that Barclays didn't do enough to protect her from becoming the victim of a scam and would like Barclays to refund her the money she has lost.

What happened

In 2021, Mrs V was looking online for investment opportunities and came across a company called 'Legal-cost finance'. She submitted an enquiry and was contacted the next day by phone.

Mrs V says that the person who contacted her appeared highly professional and built up a good rapport with her. She supplied them with identification which added to the legitimacy of who she was dealing with. Mrs V also asked for the company registration number and address. Mrs V was persuaded to download AnyDesk onto her computer and invest in gold and silver funded via purchasing cryptocurrency.

Mrs V initially made a small investment and was then further persuaded by the 'trading platform' she was provided which apparently showed her live investments. Mrs V was then told that another client had dropped out of a Covid-19 contract and if she invested more money, she would be able to move up to a higher category and make more money and make a withdrawal.

In total, Mrs V made nine payments, to a total of £18,375.92.

Shortly afterwards, Mrs V was told that she would be able to withdraw money, but that she needed to pay more money to do so. Mrs V then realised she had been the victim of a scam.

Mrs V complained to Barclays, but it didn't uphold her complaint. She then brought her complaint to this Service.

Our Investigator considered the complaint but didn't think that it should be upheld.

Unhappy, Mrs V asked for an Ombudsman to make a final decision, so the complaint has been passed to me.

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've decided not to uphold this complaint for broadly the same reasons as our Investigator. I know this will be disappointing for Mrs V, so I will explain why.

Was Mrs V the victim of a scam?

I don't think that it is in dispute here that Mrs V was the victim of a scam. She was taken in by the promise of investment returns that didn't materialise by a scammer posing as a broker. The scammer took steps to befriend and persuade Mrs V that he was genuine and persuaded her to download AnyDesk onto her computer.

Did Mrs V authorise the payments?

In line with the Payment Services Regulations 2017 (PSRs), Mrs V isn't liable for payments she didn't authorise, unless she failed with gross negligence or intent to comply with the terms of the account or keep her personalised security details safe. Accordingly, I've considered whether Mrs V authorised the payments in question here.

Having done so, I don't think that it is in dispute here that Mrs V authorised the payments in question. They were made using her own credit and debit cards, and she confirmed with Barclays that she wanted to make the payments. I understand that Mrs V had been tricked by the scammer into instructing Barclays to make the payments – but while Mrs V never intended the payments to go to the scammers, this doesn't change the fact that she authorised them and is therefore presumed liable for the loss in the first instance.

Should Barclays have prevented the payments in the first place?

I can only uphold this complaint if I think that Barclays reasonably ought to have prevented some or all the payments Mrs V made in the first place – therefore preventing the loss before it happened.

Mrs V authorised the scam payments in question here – so as I've explained above, she is presumed liable for the loss in the first instance.

That said, as a matter of good industry practice, Barclays should have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction.

Taking into account the law, regulatory rules and guidance, relevant codes of practice and what I consider having been good industry practice at the time, I consider Barclays should fairly and reasonably:

- Been monitoring accounts – including payments made and received – to counter various risks including anti-money laundering, countering the financing of terrorism and preventing 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 (amongst 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; and
- 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.

Mrs V started out making a small payment to the scammer of £89.48 – so I wouldn't have expected Barclays to intervene here.

However, Mrs V then attempted to make a larger payment of around £1,680, and Barclays blocked the payment. Barclays has provided the call that took place on 26 October 2021 with Mrs V about the payment which I have listened to.

In this call, Barclays questioned Mrs V about the payment and how she had come across the 'investment'. Mrs V was truthful with Barclays during this call, including that she was purchasing crypto, and that she had downloaded AnyDesk onto her computer.

Barclays explained to Mrs V during this call that it sounded like a scam – and that she shouldn't make the payment. It also told her that the business she was dealing with was no longer authorised by the Financial Conduct Authority (FCA) and expressed concern that she had downloaded AnyDesk onto her device. It told her that she should delete the AnyDesk application and run an anti-virus check on her computer. Mrs V expressed that it was a shame as she had some profit in the account. At the end of the call, it told her again that it was very likely she was being scammed.

However, while this payment never left her account, Mrs V continued to make further payments to the scammer.

Mrs V says that Barclays should have intervened again when she made a later payment on 12 November 2021 of just over £4,400.

While I agree that this payment was unusual for Mrs V, and that Barclays should have intervened at this point for a second time, I would also have to agree that a second intervention from Barclays would have made a difference – and I don't think that it would.

Barclays had already given Mrs V a meaningful warning that she was very likely being scammed – but she chose to ignore this and continue to pay the scammer.

So, I don't think that there was any more that Barclays could have said that would have stopped Mrs V. She was obviously convinced of the scammer's legitimacy was so taken in by the scam that she wanted to continue regardless of what Barclays was saying to her.

I do have sympathy for the situation that Mrs V now finds herself in – she has been the victim of a cruel scam – this is not in dispute. However, the loss suffered is ultimately caused by the scammers themselves – not Barclays. And I can't ask Barclays to refund this loss when I think it provided a meaningful warning and Mrs V chose to ignore it.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs V to accept or reject my decision before 27 July 2023.

Claire Pugh
Ombudsman