

The complaint

Mrs S is unhappy Barclays Bank UK PLC (“Barclays”) won’t reimburse her for the money she lost when she fell victim to an ‘authorised push payment’ (“APP”) lottery scam.

What happened

Mrs S sadly fell victim to a cruel scam whereby she believed she had won a national lottery abroad. Mrs S made multiple payments from her Barclays account (and from accounts she held at other banking providers). The payments were for various fees and taxes in order to obtain her winnings which sadly never materialised.

The payments Mrs S made from her Barclays account happened between 2009 and 2016.

Mrs S says she realised she had fallen victim to the lottery scam having made a payment on 15 March 2016 from an account she held with another banking provider. Mrs S says she reported the matter to Barclays and her other banking providers at this time. Mrs S has said she was told by all her bank providers at the time that nothing could be done.

Mrs S revisited matters regarding the payments she had made towards the scam that took place between 2009-2016 and contacted our service on 3 September 2020.

Mrs S requested statements from Barclays on 29 September 2020 and then referred her complaint about Barclays (and two other banking providers) to our service in October 2020.

Barclays explained that it spoke to Mrs S about some international payments that it advised it was unable to recall due to the age of the payments, and then wrote to Mrs S on 15 December 2020 to try and obtain further information about the payments Mrs S had made.

Barclays wrote out to Mrs S again on 5 January 2021 providing Mrs S with her statements from 2009 to 2016 and asking for a list of the transactions in dispute. Barclays within this correspondence offered Mrs S £150 as an apology for not dealing with Mrs S’s concerns in a timely manner and provided referral rights to our service if Mrs S remained unhappy.

Our Investigator then obtained statements from Barclays covering the period 2009-2016 and went through all the payments Mrs S had made to capture the payments that were as a result of the scams she had fallen victim to.

Barclays in its submissions to this service considered that due to the age of the payments, and when they were made, they were brought outside of our service’s time limits to refer a complaint.

Our Investigator reviewed the matter. They concluded that on the majority of the payments Mrs S had made, they were brought to us out of time, according to our rules. And our Investigator didn’t think that exceptional circumstances had prevented Mrs S from pursuing her complaint within the time limits allowed.

However the Investigator ultimately concluded that for five of the later payments in relation to the lottery scam Mrs S fell victim to – made from 4 March 2015 until 21 March 2016 – our service did have the power to consider those payments as they were referred to us in time.

And our Investigator concluded that on the five payments that were referred to us in time, Barclays could have done more for Mrs S and provided better intervention on these payments as they considered it should have been clear to Barclays that Mrs S was potentially at risk of financial harm. The Investigator thought had better intervention taken place, the scam would have likely been revealed and the payments would have been prevented.

However our Investigator thought Mrs S should share some responsibility for the loss as there were a number of concerning factors that Mrs S should reasonably have questioned. So they thought there was enough going on that Mrs S should reasonably have had a cause for concern before making the payments.

Our Investigator recommended Barclays refund Mrs S 50% of the last five payments they considered were within our services jurisdiction to consider and pay Mrs S additional compensatory interest on that amount at 8% simple from the date of each payment until the date of settlement.

Barclays agreed with the Investigator's opinion.

Mrs S disagreed. Mrs S considers that all of the payments made from 2009-2016 should be considered. And Mrs S considered she should be reimbursed in full.

As Mrs S disagreed with our Investigators opinion on the payments the Investigator considered were out of jurisdiction – because they were brought to our service too late under the rules we have to apply – a separate decision (under a different complaint reference with our service) was issued.

I was the deciding ombudsman and issued a decision whereby I deemed that the payments in question (the payments Mrs S made from March 2009 up to and including a payment made on 23 April 2014) were referred to our service too late under the time limits and rules we have to apply. In short, I didn't have the power to consider Mrs S's complaint about the payments she made between March 2009 up to and including a payment made on 23 April 2014.

This complaint reference, and this final decision, focuses on the payments that our service has the power to consider – that being the payments made from 4 March 2015 until 21 March 2016.

Mrs S considers she should be reimbursed in full for these payments.

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 uphold this complaint in part. I'll explain why.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

It is the case that Mrs S authorised the transfers in dispute and that's accepted by all parties. And under the Payment Service Regulations 2009 (which are the relevant regulations in place here) that means Mrs S is responsible for them. That remains the case even though Mrs S was the unfortunate victim of a scam.

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

- Have been monitoring accounts and any payments made or 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 that 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 payment service providers 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.

Taking the above into consideration, in this case, I need to decide whether Barclays acted fairly and reasonably in its dealings with Mrs S when she made the transfers, or whether it should have done more than it did.

However, in this case, Barclays accepts it could have done more to identify and prevent Mrs S from the risk of financial harm. And it agreed with our Investigator's opinion to refund 50% of the five payments Mrs S made.

So, all that is left for me to decide is whether Mrs S should bear some responsibility for the loss also.

Having carefully considered this aspect – I think there was enough going on by the time Mrs S was making the payments that she should have had serious concerns about what she was being asked to do and the purpose for the payments. So I think it is fair that Mrs S shares some responsibility for the loss.

I say this because while Mrs S fell victim to a cruel scam – in which she thought she had won the lottery; I am mindful that by the time Mrs S was making payments from March 2015 and onwards, she had previously made payments from her Barclays account and from her accounts with other providers between 2009-2015 in order to obtain what she thought was her winnings. And Mrs S had made payments for various fees and taxes and her winnings never materialised over the duration of those years. Mrs S should reasonably have questioned the plausibility of things when making the payments in light of the payments she had made over a number of years previously.

So I think it is reasonable to conclude that by the time Mrs S made these payments (from March 2015 onwards) she should have had serious concerns that all wasn't as it seemed, and that it was likely that she was falling victim to a scam and that she hadn't in fact won the lottery. And given what had happened in previous years Mrs S should have been wary about making any further payments and questioned what she was being asked to do. I think it is reasonable to say that Mrs S should have known that something wasn't right and could have mitigated her losses here. I therefore consider it fair that she shares equal responsibility for the losses incurred.

I've also considered whether Barclays took reasonable steps to recover Mrs S's funds once it was made aware she was the victim of a scam. Unfortunately, by the time matters were raised, a considerable amount of time had passed. Fraudsters typically move or withdraw the funds on as quickly as they can in case the scam is reported, and an account is blocked / frozen. So I don't think there was any reasonable prospect of Barclays being able to recover the funds Mrs S had sent years previously. So I can't fairly say Barclays could have done more here given the time that had passed since the payments had been made.

I note Barclays awarded Mrs S £150 as an apology for not dealing with her concerns in a timely manner. I think this is a fair amount in the circumstances and I'm glad that Barclays recognised that the level of service it provided Mrs S fell below its standards.

Putting things right

For the reasons given above, I uphold, in part, Mrs S's complaint against Barclays Bank UK PLC.

I now direct Barclays Bank UK PLC to:

- Refund £9,650 (which is 50% of the five payments Mrs S made from 4 March 2015 until 21 March 2016).
- Pay additional interest on that amount at 8% simple interest. This should be calculated from the date Mrs S made each transfer (the date of the loss) until the date of settlement. †

I consider 8% simple interest to be a fair amount to award as additional compensation. I say this because Mrs S can't recall the source of the funds due to the time that has passed and I'm mindful that, ultimately, she has been deprived of the use of those funds. And I note Barclays didn't object to this when it agreed with our Investigator's opinion how this matter should be resolved.

- Pay £150 compensation for the level of service it provided to Mrs S (if this hasn't been paid already)

† HM Revenue & Customs requires Barclays Bank UK PLC to take off tax from this interest. Barclays Bank UK PLC must give Mrs S a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons given above, my final decision is that I uphold this complaint in part.

I direct Barclays Bank UK PLC to pay compensation, as set out above, within 28 days of receiving notification of Mrs S's acceptance of my final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 25 May 2023.

Matthew Horner
Ombudsman