

## **The complaint**

Mr J complains that Barclays Bank UK PLC won't reimburse him the money he transferred to a fraudster.

## **What happened**

Mr J has explained he saw an individual on one of his social media platforms advertising items for sale that interested him. Mr J made contact with the seller and has said the seller provided him with positive reviews from other customers, that Mr J now understands to be fake. It's not entirely clear what Mr J chose to purchase from the seller – he initially told Barclays he was purchasing a pair of headphones, as well as some in-ear headphones, although when contacting our service he only referred to one set of headphones. Mr J contacted the seller and asked if he accepted PayPal, which he confirmed he didn't. Therefore, after some further discussion, Mr J agreed to make a bank transfer, the agreed price being £550.

Mr J made the payment in two separate transfers of £275. He told our service this was to see what reaction the seller would have after the first payment had been made. When making the payments on his online banking app, Barclays asked Mr J to confirm the payment purpose. Mr J selected 'paying your other account'. He explained that he chose this option as it's the easiest to select. When entering the payee details, Mr J was provided with confirmation that the payee's name and account details didn't match. Mr J has explained this didn't concern him, as he's aware that this can happen if the name entered varies just slightly to the registered account name. However it's not entirely clear whether the name he provided was one the seller had given him or not – when asked by Barclays he said "that's the name the person gave me", but also told our service that he didn't know the seller's name and that he "just put in a random name".

After the sale, Mr J has told Barclays he expected to meet the seller within a few hours to collect the items in person, but was then blocked – alerting him to the fact that he'd been the victim of a scam. Mr J also told our service that the seller blocked him, although explained that the seller lived too far away to meet and that he'd been waiting for the seller to provide a postal tracking number. Either way, at this point, Mr J realised he'd been the victim of a scam and contacted Barclays to make a claim.

Barclays investigated Mr J's fraud claim and considered its obligations to provide Mr J with a refund. Barclays is a signatory of the Lending Standards Board Contingent Reimbursement Model (CRM) Code, which requires firms to reimburse customers who have been the victims of APP scams like this in all but a limited number of circumstances. Barclays says one or more of those exceptions applies in this case.

Barclays has said Mr J didn't have a reasonable basis for believing he was making genuine payments. Barclays considers Mr J ought to have done more checks to make sure the person he was making the payments to was genuine.

It also contacted the beneficiary bank to attempt to recover Mr J's money, but unfortunately no funds remained in the account.

Mr J disagreed with Barclays so brought the complaint to our service. One of our investigators considered the case and didn't uphold it – he thought that, in the circumstances, Mr J ought to have completed further checks to verify that he was dealing

with a genuine seller. The investigator therefore didn't consider that Barclays needed to do anything to put things right for Mr J.

Mr J didn't agree with the investigator, so the case has been referred to me for a decision.

### **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, while I'm sorry to disappoint Mr J, I'm not upholding his complaint. 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 be good industry practice at the time.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the consumer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the consumer even though they authorised the payment.

When thinking about what is fair and reasonable in this case, I've considered whether Barclays should have reimbursed Mr J under the provisions of the CRM Code and whether it ought to have done more to protect Mr J from the possibility of financial harm from fraud.

There's no dispute here that Mr J was tricked into making the payments. He thought he was making genuine payments for headphones and that didn't happen. But this isn't enough, in and of itself, for Mr J to receive a refund under the CRM Code. The Code places a level of care on Mr J too.

#### *The CRM Code*

As I've mentioned, Barclays is a signatory of the Lending Standards Board Contingent Reimbursement Model (CRM) Code. The CRM Code requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams like this, in all but a limited number of circumstances and it is for Barclays to establish that a customer failed to meet one of the listed exceptions set out in the CRM Code.

Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that\*:

- The customer ignored what the CRM Code refers to as an "Effective Warning" by failing to take appropriate action in response to such an effective warning
- The customer made payments without having a reasonable basis for believing that: the payee was the person the Customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate

*\*Further exceptions outlined in the CRM Code do not apply to this case.*

I think Barclays has been able to establish that it may choose not to fully reimburse Mr J under the terms of the CRM Code. I'm persuaded one of the listed exceptions to reimbursement under the provisions of the CRM Code applies.

Taking into account all of the circumstances of this case, including the characteristics of the customer and the complexity of the scam, I think the concerns Barclays has raised about the legitimacy of the transactions Mr J was making are enough to support its position that he

didn't have a reasonable basis for believing he was paying for genuine goods. I'll explain why.

Mr J's testimony regarding how this scam unfolded hasn't remained consistent during his conversations with Barclays and our service. Where evidence is inconsistent, this unfortunately impacts how much weight our service is able to place on a consumer's testimony, particularly in cases like this where unfortunately some parts of conversations between Mr J and the seller couldn't be provided, or were conducted by telephone.

In any event, Mr J has said he asked the fraudster whether they would accept payment via PayPal and this appears consistent with the screenshots he has been able to provide of the conversation with the fraudster. When discussing different payment options, Mr J comments on how some give 'more protection'. I think this demonstrates that Mr J is aware that there is a risk in paying by bank transfer. I'm also aware that Mr J has also been a past victim of a scam where, similarly, he purchased an item through a different social media platform that never materialised. Based on this I think Mr J would've been aware of potential scam risks when making this payment.

Similarly, Mr J has explained that he made two separate payments to test the fraudster's reaction. I think again this demonstrates that Mr J was alert to the possibility that the 'seller' may not be genuine and this was a way to see how the seller would respond to some money being provided, before sending it in its entirety.

I appreciate Mr J's point that bank's Confirmation of Payee processes can sometimes be sensitive to discrepancies – however, by not questioning this, or potentially asking for the name on the account at all, I think Mr J has missed an opportunity to verify whether he was speaking to a genuine business, or conduct further external checks on the legitimacy of the individual he was sending funds to.

When raising his fraud claim with Barclays, it asked Mr J if he did anything to satisfy himself that the person he sent the money to was genuine. He confirmed he didn't and that the voice notes he'd received from the fraudster, as well as the fake reviews were what had convinced him. While I appreciate that Mr J has said he was excited to purchase the headphones, I don't think these factors alone were enough to detract from the red flags here that Mr J may not be speaking with a genuine seller.

With all of the above in mind, in the particular circumstances of this case, I consider that Mr J ought to have had concerns about the payments for goods he was making and that, in turn, ought to have led to a greater degree of checking on Mr J's part. In not carrying out sufficient checks I don't find he had a reasonable basis for believing he was purchasing genuine goods and so fell below the level of care expected of him under the CRM Code.

*Should Barclays have done more to try to prevent the scam and protect Mr J?*

I've thought about whether Barclays did enough to protect Mr J from financial harm.

The CRM Code says that where firms identify APP scam risks in a payment journey, they should provide Effective Warnings to their customers. The Code also says that the assessment of whether a firm has met a standard or not should involve consideration of whether compliance with that standard would have had a material effect on preventing the scam.

I am also mindful that when Mr J made these payments, Barclays should fairly and reasonably also 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).

Having considered the payments Mr J made, I don't think they were so remarkable, in comparison to his usual account activity, that it should've appeared as suspicious to Barclays. I therefore don't think Barclays failed to meet its standards under the Code by not providing Mr J with an effective warning, prior to processing the payment. I've also

considered that in any event, when asked for the payment purpose, Mr J didn't select the option that most accurately reflected the payment he was making, thereby making it more difficult for Barclays to protect him from financial harm.

Once it was made aware of the scam, Barclays promptly tried to recover Mr J's funds from the beneficiary account, but unfortunately was unsuccessful in doing so. I don't think Barclays could reasonably have done anything further to recover Mr J's payments.

Overall, I'm satisfied that Barclays' position on Mr J's fraud claim, and its assessment under the CRM Code, is fair and reasonable in all of the circumstances and that Barclays shouldn't be held liable for Mr J's losses. And so I don't intend to make an award to Mr J.

### **My final decision**

My final decision is that I don't uphold Mr J's complaint about Barclays Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 1 April 2024.

Kirsty Upton  
**Ombudsman**