

The complaint

Mrs E complains that Barclays Bank UK PLC (Barclays) won't refund money she paid to a company in 2016.

What happened

Mrs E is represented by her son, who holds a Lasting Power of Attorney (LPA) over her financial affairs. As it is he who contacted Barclays and this service, I refer to him in this decision - as Mr E.

What Mr E (the LPA) says:

Mr E was given a LPA by his mother and this was registered with Barclays in April 2022. When Mr E then looked into his mother's affairs he discovered six payments to a company in April 2016 and May 2016 – which were substantial, and he can't understand what they were for. The payments were:

Date	Payment	Amount
28 April 2016	Online payment to company A	£10,000
29 April 2016	Online payment to company A	£8,000
17 May 2016	Online payment to company A	£14,500
17 May 2016	Online payment to company A	£14,500
17 May 2016	Online payment to company A	£14,500
19 May 2016	Online payment to company A	£14,000
Total		£75,500

Mrs E no longer has capacity and Mr E cannot get her to explain what the payments were for – and so he thinks she was scammed into making them. He says Barclays should've done more to protect Mrs E, and they should refund the money.

What Barclays said:

Barclays said the complaint was out of time – as it was more than six years since the payments took place. And the Contingent Reimbursement Model (CRM) didn't apply as it came into effect later, in 2019. So they declined to refund any money, but paid compensation of £100 as a gesture of goodwill.

Our investigation so far:

Mr E brought the complaint to us. Our investigator issued a view which says the complaint could be looked at – as Mr E had only become aware of the issues when he looked into his mother's affairs – starting in April 2022 with the registration of the LPA. So – he had complained to Barclays within three years of becoming aware there was a problem – in October 2023. This then brought it within our rules.

Our investigator then investigated the merits of the case. But – he didn't consider it to be a scam. Company A was a registered trading company – and Companies House shows it was trading at the time of the payments. It was incorporated in 2006 – it appeared to be in the business of selling investments in wines. It went into liquidation in May 2023 (by which time it had changed its name). Barclays' records show the payment for £8,000 was stopped and held for investigation. They called Mrs E about it and following the conversation, the payment was released.

But overall, our investigator wasn't persuaded that Company A was a scam operation, and so Mrs E had paid a legitimate merchant. So – Barclays acted reasonably and didn't have to refund any money.

Mr E disagreed. He said Barclays had a responsibility to contact Mrs E after the payment of £8,000 – as the subsequent ones were for larger values, but they didn't. He said Barclays must have been negligent not to do so. He asked that an ombudsman look at the complaint.

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.

As a first step, I need to decide whether this was a scam (where a scammer takes money from a customer with no intention of providing any services or returning the money to them) or a civil dispute (where a payment is made to a legitimate trading company or business, but the promised services or products don't materialise, or are sub-standard).

If this was a scam – then banks (including Barclays) must follow industry and regulatory guidance to check certain payments and in some circumstances, protect customers by stopping the payments and contacting customers about them. And where banks haven't followed the guidance, they can be asked to refund the money lost. This is called 'Authorised Push Payments' guidance (APP).

But where payments are made to a valid business for work to be done, or an investment to be made, then such principles don't apply - this is then classed as a civil dispute, and for which banks normally have no liability.

I therefore looked at Mr E's complaint with this in mind. I can see this is a 'civil' dispute between himself (on behalf of his mother, Mrs E) and Company A. I say that as I can see from Companies House records:

- Company A was incorporated in 2006.
- It continued as a registered (but dormant) company, and it appears to have started trading in 2012.
- It traded from then until the last annual accounts were filed at Companies House for the year ended May 2018.

- The company appointed a liquidator in May 2023.
- There wasn't anything online about the company being a scam operation. It seems to have been selling investments in wine. There is a report of someone being concerned about whether it was genuine or not – but normally, we would expect to see many reports warning about a scam if Company A was operating a scam.

Therefore, I'm satisfied this wasn't a scam – the payments appear to be for an investment that went wrong, or the promised returns didn't materialise. I know Mr E will continue to be puzzled as to why his mother made such payments for an apparent investment and for that purpose. But – for the reasons I've explained, I can't hold Barclays liable to refund the money.

We asked Barclays for the call which took place on 29 April 2016 – to try to find out what Mrs E was paying the money for – as this may have helped Mr E understand what happened. But due to the passage of time, the call is no longer available to listen to. Barclays' notes record that they called Mrs E about the payment (for £8,000) and she said it was 'genuine' and that she wanted it to be made.

Mr E argues Barclays should've intervened in the further payments after the one for £8,000. But here, in 2016, there were very few obligations on banks to ensure payments weren't part of a scam.

Beginning in December 2017, there were some limited circumstances where a bank should have taken additional steps before processing a payment to help protect customers from the possibility of financial harm. For example, there were some guidelines which should have been followed when older or vulnerable customers asked to make unusually large cash withdrawals or where someone appeared to be telling them what to do.

And further guidance and rules followed after this time – but this was all after Mrs E made the payments in April and May 2016. So, I'm not persuaded that Barclays needed to intervene in any of the payments given the rules and guidance in place at the time.

Therefore, as there's no evidence that suggests Mrs E was the victim of a scam, and the payments were to an investment firm, I don't uphold this complaint. Mr E may wish to contact the liquidator of Company A to see if any funds can be returned – the address can be found on the Companies House website. **(continued)**

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E (for Mrs E) to accept or reject my decision before 28 March 2024.

Martin Lord
Ombudsman