

## **The complaint**

Mr and Mrs S complain that Barclays Bank UK PLC did not refund all of the money they lost to a scam.

## **What happened**

Both parties are aware of the details of the complaint, so I won't repeat them again in detail here. In summary, Mr and Mrs S were approached by a company I'll call 'X' who helped them invest in fine wine. Over the course of around two years, they sent just over £66,000 to X to build their portfolio of wines and they received some returns in that time. Eventually X asked for more money for fees and charges before they could receive their returns and Mr and Mrs S realised they had been the victims of a scam.

They raised a claim with Barclays who attempted to recover the funds, however none remained. Barclays assessed the claim under the Lending Standard Boards Contingent Reimbursement Model ("CRM") Code and felt they did not meet their obligations to provide an effective warning for the payments. However, they felt Mr and Mrs S had not met their obligations under the code either, as they did not have a reasonable basis to believe they were paying for genuine goods/services. Because of this, Barclays refunded 50% of the losses incurred which totalled £27,270.23. They've since said they mis-calculated the refund and made a slight overpayment, but were not looking for this to be recouped from Mr and Mrs S.

Mr and Mrs S referred the complaint to our service as they felt they should receive a full refund. Our Investigator looked into it and felt Barclays had acted reasonably when it relied on the exception to reimbursement under the code as they did not think Mr and Mrs S had a reasonable basis to believe they were dealing with a legitimate investment company.

Mr and Mrs S' representative did not agree. Amongst other things, they pointed out Mr and Mrs S went through 'know your customer' checks with X and had previously invested in wine with healthy returns.

As an informal agreement could not be reached, the complaint has been passed to me for a final 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.

The starting point in law is that Mr and Mrs S are responsible for any payments they've authorised themselves. However, the CRM Code requires a firm to reimburse victims of authorised push payment scams that fall under its provisions, unless a firm can demonstrate that one of the exceptions to reimbursement apply. In this case, Barclays says that Mr and Mrs S lacked a reasonable basis for believing that they were dealing with a legitimate investment firm and paying for legitimate services. Having carefully considered this, I agree that Mr and Mrs S have not met their obligations under the code in this aspect. I'll explain

why in more detail.

I understand that Mr and Mrs S had previously invested in wine, so had some understanding of how the process worked. I have to take into consideration that it appears Mr S was contacted by X and not the other way around, as he has said he does not recall leaving his information with them to be contacted. As he had essentially been cold-called by a company, I would expect him to be cautious and look into them in more detail.

Mr and Mrs S have also said that apart from invoices for the specific wines that were purchased, they did not receive any paperwork or documentation from X. As they were entering into an agreement where X would manage a significant amount of money on their behalf, I would expect to see some form of agreement setting out the terms that had been accepted. But it does not appear that anything was received by Mr and Mrs S before they started to send money to X.

I appreciate that Mr S has said he checked the organisation on Companies House and saw that they existed. However, I also note that the company was incorporated just a few months before he started dealing with them, and there had been no filings for the company before that point. I don't expect consumers to be experts at reading Companies House, but I do think the incorporation date is clear and this also could have raised some concerns for Mr and Mrs S.

While we don't have much communication between Mr and Mrs S and X from when the investment began, we do have some from towards the end of the scam. And I can see that the representative from X was not acting in a professional manner. There is bad grammar, incorrect spelling and swearing in the correspondence, with a general unprofessional tone being used. So, I can see that there would have eventually been warning signs from the general demeanour of X that they were not a professional company and this could have raised questions about their legitimacy.

Mr S has also mentioned to Barclays that he was bullied by the representative from X and that they pushed him to invest more money even when he didn't want to. These should also have been a warning to Mr S that something was not right, and he was not dealing with a legitimate company.

Having considered everything as a whole, I don't think Mr and Mrs S had a reasonable basis to believe that they were dealing with a legitimate company who was providing a legitimate service to them. Because of this, I think Barclays acted reasonably when it relied on the exception to reimbursement under the CRM code.

Barclays also has obligations under the CRM Code. If it fails to meet those standards in relation to a particular payment, or series of payments, and that failure would have had a material effect on preventing the scam then it may be responsible for partially reimbursing its customer. All parties are already in agreement that Barclays did not meet their obligations under the code as they did not provide an effective warning when Mr and Mrs S made payments that posed a risk of financial harm. Because of this, a partial refund is due. As all parties are in agreement, I see no reason to discuss this further in this decision.

I therefore think that the refund Barclays has already provided is in line with what I would have recommended in the circumstances. And I don't direct it to take any further action in relation to this complaint.

### **My final decision**

I do not direct Barclays Bank UK PLC to take any further action to remedy Mr and Mrs S'

complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs S to accept or reject my decision before 31 May 2024.

Rebecca Norris  
**Ombudsman**