

## **The complaint**

Mr M is unhappy that Barclays Bank UK PLC has decided not to refund him after he says he was the victim of an APP scam.

## **What happened**

Mr M paid £6,732 to a company I'll refer to as S, to purchase and install solar panels. This payment represented 50% of the total cost of the contract price. Mr M says he never received the solar panels or received a refund from S.

Mr M says that at the time of first contacting S, it had a specific accreditation. This meant it could offer certification on the solar panels it installed regarding the energy generated from them. Mr M says S lost its accreditation just before he entered into the contract with it, and this was a key part of the contract.

After several months of attempting to resolve the issues with S, Mr M reported the matter to Barclays, saying he'd been scammed.

When reporting the matter to Barclays Mr M says he experienced delays and poor customer service.

Barclays considered Mr M's claim but said the matter was a buyer, seller dispute and therefore deemed out of scope under the Contingent Reimbursement Model (CRM) code. Barclays went on to uphold Mr M's complaint about the service it provided. It said the level of service fell below an acceptable standard. It agreed there had been a delay in the complaint outcome and poor communication. Barclays attempted to contact Mr M by phone as per his request but was unable to do so. It offered Mr M £175 in compensation.

One of our investigators looked into things. He said he was persuaded this was a civil dispute rather than an APP scam. He concluded there wasn't supporting evidence to establish that S wasn't a legitimate company when Mr M made his payments.

He said S's contract had said it was accredited at the time Mr M made the payments, but Mr M had found that it wasn't and S didn't make Mr M aware of this. He was satisfied that Mr M hadn't received what he'd paid for and had been left out of pocket. And he agreed that S may have misrepresented its accreditation when it accepted Mr M's money and entered into the contract, but that wasn't enough to be satisfied, that this was an APP scam. He also considered the positive reviews about S prior to it losing its accreditation, where other consumers commented that they'd had their panels installed but hadn't receive the certification.

The investigator wasn't persuaded that there was enough convincing evidence to say S had intended to defraud Mr M at the time the payments were made. And he thought S had made its sales pitch in good faith before it lost its accreditation. He thought it was likely that S could have believed it would be able to earn its accreditation back and continue to trade as normal by the time it fulfilled its contract with Mr M.

The investigator concluded that Barclays didn't need to refund Mr M's losses or make attempts to recover his funds from the beneficiary account either.

Mr M didn't accept the investigators findings. He provided a detailed and lengthy response. I have read every comment and point Mr M has made but I've summarised the salient points in this complaint:

- Mr M remained unhappy with Barclays service saying it did very little in its investigation of the matter and it's communication was poor. Barclays accepted it had let him down by offering a small amount of compensation which he neither accepted or rejected.
- S entered into the contract knowing it couldn't fulfil it, because it did not have its accreditation. He has been told by multiple agencies that this is fraudulent.
- He's raised the issue with the Police and Trading Standards who are investigating. He has been told of multiple other victims and has shared emails containing evidence of this and directed the investigator to contact those involved in on-going investigations.
- Online reviews that the investigator referred to about S being genuine are not a reliable source of data.

As the complaint could not be resolved it 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.

I'll start by saying I'm sorry that Mr M has lost out as a result of what's happened here and his interactions with S. I can see he's taken considerable time and effort in bringing his complaint to both Barclays and our service and feels passionately that he's been the victim of a scam.

It's my role to consider, as a result of those interactions and financial losses made with S, whether Barclays is responsible to refund Mr M, when applying the Contingent Reimbursement Model (CRM) and other relevant industry guidance in deciding the outcome of this complaint.

I'm sorry to have to disappoint Mr M but I agree with the investigator. That's not to take away that Mr M hasn't suffered a loss or, that some fraudulent behaviour may have been underlying S's actions. But not all instances of fraud will be enough to say that a bank is responsible for a consumer's losses. I need to see convincing evidence that Mr M has been the victim of an Authorised Push Payment (APP) scam, in order for that to be the case. Below are the relevant sections of the CRM code.

#### **APP Scam**

*Authorised Push Payment scam, that is, a transfer of funds executed across Faster Payments, CHAPS or an internal book transfer, authorised by a Customer in accordance with regulation 67 of the PSRs, where:*

*(i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person;*  
*or*

*(ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.*

*DS2(2) This Code does not apply to:*

*(b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier;*

In order for the consumer to have been the victim of APP scam the consumer must have been deceived about the very purpose for which their payment has been procured. Here the purpose of the payment was to provide and install solar panels.

A dishonest misrepresentation about S's accreditation, whilst may be a deceit to deliberately and dishonestly procure Mr M's payment, doesn't give rise to a situation where S and Mr M have different purposes for the payment. That being the purchase and installation of the solar panels.

And whilst the solar panels were not subsequently supplied or installed, I haven't seen convincing evidence that it's because S had never intended to do so. As S was a genuinely trading company, for a number of years, leading up to these events and prior to Mr M's payments, there may be any number of good reasons for why the contract has not been fulfilled.

I have also seen the online reviews about S which continue into August 2023. Mr M believes these are not a reliable source of data to show that S was a genuine company. These reviews however, do show that consumers were leaving reviews about S – at least up until May 2023 - to say they'd received their solar panels and installation but were otherwise unhappy with the service they had received. This leads to a reasonable conclusion that S was still providing and installing solar panels (albeit to a dissatisfactory quality and standard) for another year after Mr M entered into his contract with S. And given the breadth and variety of reviews and the timespan in which they are given, I'm satisfied some weight can be given to them as an indication of S's operations at the time Mr M contracted with them. All of these factors together satisfy me that this is a civil dispute. Mr S may validly have a claim against S for a contractual dispute, otherwise in law. But I'm not persuaded on balance that as a result of him being the victim of an APP scam. And I'm satisfied there isn't any other reason why Barclays needs to refund Mr M for his losses here.

Mr M has mentioned Police and Trading Standards involvement and if those investigations result in any new or material evidence relevant to Mr M's claim then he can of course raise a new complaint with his bank at the time. But an on-going Police or Trading Standards investigation does not mean that an APP scam has been established.

### *Compensation*

I have considered Mr M's complaint point about the compensation that Barclays offered as a recognition of the poor service it delivered to Mr M when handling his complaint. I don't think this means that there was a failure to consider his complaint properly or fairly or that this should result in a full refund of his losses.

The delay, in part, was due to Mr M's specific request to discuss his complaint over the phone and Barclays not being able to reach him on a number of occasions and not responding to emails being sent to him.

Overall, I'm persuaded it did consider his evidence before reaching its outcome, Mr M just doesn't agree with the conclusion it came to. I'm not satisfied that this is due to poor

customer service or lack of consideration of his concerns or evidence so much so that any further compensation is warranted in this instance.

I can see there were some issues with calls being cut-off a couple of times, being kept on hold for a long periods of time and not being able to confirm receipt of emails which frustrated Mr M. But I'm satisfied the compensation offer of £175 from Barclays is fair here, I don't recommend any further compensation to be paid.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 2 April 2024.

Sophia Smith  
**Ombudsman**