

The complaint

Mrs M complains that Barclays Bank UK PLC didn't refund her money after she fell victim to a fraud.

What happened

As both parties are familiar with the circumstances of this complaint, I've summarised them briefly below.

Mrs M holds an account with Barclays. In 2022, Mrs M started speaking with a third-party online after they'd met on a social media platform. They became friends and talked regularly but, unbeknown to Mrs M at the time, she was talking with a fraudster.

Mrs M was told by the third-party that they worked abroad on a ship and that they'd sent her a gift which was to be delivered by courier. As part of the fraud, Mrs M was contacted by someone purporting to be a courier who said they'd opened the package and it contained £15,000 in cash.

Mrs M was then instructed to make a number of payments associated with tax, customs and delivery charges over the course of two months. She was also asked by the third-party to send money for various other reasons, such as personal bills etc. Mrs M made the following payments, which were then sent on to the third-party:

14-Nov-22	£10.49	Card payment to money remittance provider
"	£10.49	"
"	£10.49	"
15-Nov-22	£1,930.99	"
16-Nov-22	£808.99	"
"	£1,304	"
"	£1,504	"
18-Nov-22	£753	"
21-Nov-22	£2,004	"
23-Nov-22	£1,810.99	"
"	£1,832.69	"
"	£1,528.99	"
30-Nov-22	£1,003.99	"
"	£1,602.79	"
02-Dec-22	£2,003.99	"
08-Dec-22	£1,002.79	"
15-Dec-22	£605	Transfer to money remittance merchant
21-Dec-22	£1,330	"

17-Jan-23	£650	Card payment to money remittance provider
"	£2,000	Cash withdrawal
"	£250	Cash withdrawal
28-Jan-23	£202.90	Card payment to money remittance provider

Unfortunately, Mrs M later realised she'd fallen victim to fraud and had suffered a total loss of £21,153.80.

Mrs M reported the fraud to Barclays, and it investigated her claim. Having done so, it didn't find it'd made an error and therefore didn't offer any reimbursement of Mrs M's loss. In summary, it said that the payments were made to legitimate payees, the payments weren't out of character for her account and Mrs M hadn't carried out sufficient due diligence to satisfy herself the payments were for legitimate purposes, or, to a legitimate payee.

Mrs M remained unhappy with Barclays' response, so she brought her complaint to our service for an independent review. An Investigator considered the evidence provided by both parties but didn't recommend the complaint be upheld. They concluded that the payments weren't out of character when compared against Mrs M's usual account activity. It was therefore concluded that Barclays held no liability for Mrs M's loss.

Mrs M disagreed with the Investigator's assessment, so the matter has been passed 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.

On 13 March 2024 I issued my provisional findings to both parties. These were as follows:

"In broad terms, the starting position under the relevant regulations (in this case the Payment Services Regulations 2017) is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and condition of the account.

However, in deciding what's fair and reasonable, I am 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. Having done so, 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 its customers were at risk of fraud (amongst other things).*
- *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.*

Considering the above, I need to decide if Barclays had done enough here when Mrs M made the payments from her account.

Barclays has told our service that it didn't intervene in any of the payments made, as it didn't find them to be out of character or unusual when considering them against Mrs M's normal account activity. However, having considered the payments carefully, I disagree.

I agree that most of the payments wouldn't have appeared out of character. Most of the payments made early in the payment journey were relatively low value card payments to a money remittance service. And when considering Mrs M's usual account activity, she had made payments to money remittance services before. She also regularly made card payments from her account to the value of circa £1,000. So I don't think the first eleven payments ought to have caused Barclays any concern.

However, at the point Mrs M made a payment of £1,528.99 on 23 November 2022, I find Barclays ought to have had some concern and taken reasonable steps to ensure Mrs M wasn't at risk. At this stage, Mrs M had made a substantial number of payments to three different money remittance providers totalling around £12,000. And this was over the course of a nine-day period.

While Mrs M had made small payments previously to money remittance services, and regularly made card payments of higher values, I find this activity did represent a significant increase in spending and followed patterns associated with an increase in fraud risk – such as multiple payments being made in a day, and to more than one service.

However, having considered the evidence in this case—and those linked to it—, I'm not persuaded that any intervention by Barclays likely would have prevented Mrs M's loss.

Mrs M has told our service that the third-party instructed her to be dishonest with the financial service providers she was sending the money from, in order to get the payment to them faster. Evidence suggests that Mrs M was fulfilling this request when sending the funds, as the purpose for the payments made from the money remittance services claimed it was for a family members' medical bills.

As Mrs M was willing to be dishonest to the money remittance service providers on instruction from the third-party, I find it more likely than not that she'd have done the same if Barclays intervened in her payments. This would have impaired Barclays ability to identify the fraud Mrs M was falling victim to. And it also would have impacted the types of warnings it would have give in such circumstances.

I acknowledge that Mrs M was doing this on the instruction of the fraudster. But I can't reasonably hold Barclays responsible for Mrs M's loss where its intervention would have been thwarted by the inaccurate reasons for the payment being made. And I find those reasons likely would have been believable.

I can also see that the money remittance providers ensured Mrs M read and signed a fraud warning before proceeding with the payment. This warning included:

- "Never transfer money to a stranger"*
- "To pay a government taxing authority or the police"*

Along with the fact that the third-party was asking her to be dishonest, these warnings weren't sufficient to give Mrs M cause to reassess the situation and consider the risks associated with sending the payments on.

I am sorry Mrs M has fallen victim to a cruel fraud here, but I don't find Barclays has made an error in not offering a reimbursement of her loss. I do find Barclays could have done more

here, but I don't find it likely that any intervention would have made a difference to the outcome. It would therefore be unreasonable to expect Barclays to reimburse Mrs M in these circumstances."

Barclays didn't provide any further comment. But Mrs M disagreed with my provisional assessment of the complaint. She reiterated her position that the payments were out of character when considering her normal account activity. She is also unhappy that she was told by Barclays that she had additional protection with card payments to legitimate money remittance providers.

I've carefully considered Mrs M's additional comments, but I'm not persuaded to depart from the conclusions I set out in my provisional decision.

Mrs M has pointed out that the transactions subject to her complaint were out of character for her account. And I agree with Mrs M that they, from a certain point, ought to have caused Barclays concern. However, as I've pointed out in my provisional findings, this isn't the reason I haven't upheld her complaint. Had Barclays intervened at the point at which I find it ought to have had concern, or even if it intervened sooner, I find it more likely than not that Mrs M would have misled the bank about the purpose of her payments. And this dishonesty likely would have circumvented any attempt by Barclays to identify a fraud risk. I've provided detailed reasons in my provisional findings as to why I think this likely would have occurred.

Mrs M has also mentioned that she was misled by the bank into believing she had additional protection from using her card to make the payments, and this is true. Card payments do carry additional protection through schemes such as the chargeback rules. However, these wouldn't have been applicable here. Barclays had no grounds in which to proceed with a chargeback claim, as the money remittance services she used to make the payment had provided the services paid for. There was therefore no dispute with the merchant the card payments were made to.

Mrs M has also referred to an "APP code" in response to my provisional findings. I suspect Mrs M is referring to the Contingent Reimbursement Model (The CRM Code) which is a voluntary code Barclays has signed up to providing additional protection to customers that have been victim to fraud. However, this only covers authorised push payments (commonly referred to as bank transfers). As Mrs M, in the majority, made card payments and cash withdrawals from her Barclays account, her payments aren't covered by this Code.

Likewise, the one transfer Mrs M did make was to a money remittance provider for the remittance of funds she sent to the fraudster. Again, this was a legitimate transaction for goods and service she received. So this wouldn't be covered by the CRM Code.

My final decision

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 24 April 2024.

Stephen Westlake
Ombudsman