

## **The complaint**

Mr S is unhappy about Barclays Bank UK PLC's (Barclays) decision not to refund the money he paid for electrical services.

## **What happened**

The view of 11 April 2024 detailed the background to this complaint. So, I'll only provide a brief overview of some of the key events here. Mr S found an electrician through a social media website. In response to his enquiry, a business (I will refer to as T) reached out to Mr S and a deposit of £250 was paid on 4 August 2023.

Between 16 August 2023 and 10 October 2023, Mr S transferred a further four payments totalling £3,530. So he paid T £3,780 in total for the work.

At the time Mr S believed he was paying for services from T. However, he says T didn't finish the work and the work that was completed was substandard.

Barclays initially agreed to refund 50% of the transactions from the third transaction onwards. This was on the basis it felt it should have intervened on this payment and this would have stopped this transaction and those that followed, but it also felt Mr S could have done more to research the trader before making the payments so felt he should share in the responsibility for his loss. So it refunded £1,515. It also offered Mr S £150 for not logging the claim quickly enough.

But later Barclays reassessed the case and deemed the matter a civil dispute.

Our investigator did not uphold the complaint. He thought Barclays correctly classed this as a civil dispute between Mr S and T and explained that this situation isn't covered by the Contingent Reimbursement Model (CRM) Code. Mr S did not agree, so the case 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.

In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence.

Mr S told us the case handler at Barclays dealing with the case said if it was up to him, he would have refunded more of his money – but his manager didn't agree. And if Mr S brought his case to this service we would agree all his money should be refunded.

The bank made a decision (before coming to this service) to refund some of the transactions. Banks can choose to make refunds for their own reasons. Ultimately, it's now changed its position on this case and presented arguments that this is a civil dispute. Each case presented to me is considered based on the particular set of facts to that case and what Mr S has said he was previously told by the bank - isn't a determining factor in this case.

I'm sorry to hear about the situation Mr S has been left in. He has paid out a considerable sum of money, yet it seems the work is not complete and, from what he has said, what has been carried out is substandard.

It's clear that Mr S feels strongly that T has tricked him. From his perspective, T provided substandard half-finished work and ultimately didn't turn up to complete the job. But I don't have the power to decide any dispute between Mr S and T. My role is limited to looking at whether Barclays has treated Mr S fairly.

Barclays didn't contract with Mr S for the electrical works he wanted done, and I can't hold it responsible for any breach of contract or other failings on T's part. As a starting point in law, Mr S is responsible for payments he's instructed Barclays to make. Unfortunately, there's little protection available to him for bank transfer payments, like these.

Barclays was under a range of other duties and obligations at the time, including to be on the lookout for payments that were unusual or out of character with the aim of preventing customers from falling victim to fraud and scams.

It's also a signatory to the CRM Code. In certain circumstances, that Code can entitle a customer to be reimbursed by banks or building societies after they've fallen victim to an APP (authorised push payment) scam.

The CRM code defines a scam as where a customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person. Or where the customer transferred funds to another person for what they believed were legitimate purposes but were in fact fraudulent.

But the CRM Code is also explicit that it doesn't apply to:

"private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services ... but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."

So I need to consider whether Mr S has been the victim of a scam – or, in other words, whether Mr S was deceived about the purpose of the payments to the extent that he and T had intended different purposes for the payments.

I've thought very carefully about this but, there is a high legal threshold or burden of proof for fraud. And there are a number of potential reasons (other than a scam) for the breakdown in a relationship between two parties for a dispute to exist. And unfortunately, businesses (such as T's business) can fail or be mismanaged such that contracts are breached and agreed goods and services aren't provided. But that doesn't necessarily amount to evidence of an intent to commit an APP scam.

An APP scam is where a customer was deceived into making a payment to another person for what they thought were legitimate purposes but turned out to be fraudulent. In this context, that would mean that the very purpose for which T obtained the payments would need to be different to what Mr S believed they were for, due to dishonest deception.

I must make a decision on what I think is most likely to have happened. And, based on the evidence I've seen, I think it's more likely here T was attempting to operate as a legitimate business at the time and that other factors ultimately meant the work wasn't completed. I don't think T set out from the beginning with the intent to defraud Mr S.

There's no dispute that T did do some work for Mr S here and work was carried out over a number of weeks. This suggests an intention to deliver the agreed services. And I haven't seen any evidence that T didn't use the money in the way it said it would – i.e. for electrical related materials and labour. T may have provided substandard work and not completed the job but that's not enough to say this was an APP scam. Overall, T appears to have done more work than I'd expect from someone who never intended to complete the work.

I accept and acknowledge that Mr S may feel he has not received the service he expected, and that T may have provided misleading or incorrect information and is now uncontactable. T may have been acting unprofessionally, but I still think T's intention was to do the work that had been agreed and that the payments were being made for the purpose Mr S transferred them for.

I know this will be a huge disappointment to Mr S, but I can't exclude the possibility that T entered the agreement in good faith, intending to fulfil the work and then was unable or unwilling to fulfil the agreement for some reason. The evidence doesn't lead me to conclude it's more likely (than these alternative possibilities) that T intended to steal his money from the outset and never had any intention of fulfilling the arrangement in full or in part.

I sympathise with the position Mr S has found himself in, and I'm in no way saying he doesn't have a legitimate grievance against T. But this type of dispute isn't something that the CRM Code covers.

Overall, I don't think Barclays's ultimate decision to treat this as a civil dispute was unfair or unreasonable. That means that I can't fairly hold Barclays responsible for the loss suffered here by Mr S. It also means I find that Barclays had no ability or obligation to try and recover his money.

In addition, Barclays doesn't have any duty or obligation to intervene in payments that are legitimate or to protect its customers from the impact of a bad deal. So, I can't fairly criticise Barclays for not doing more when Mr S made the payments.

Barclays has refunded some of Mr S's money and this is more than I would award in this case.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 May 2024.

Kathryn Milne  
**Ombudsman**

