

## **The complaint**

Mr and Mrs T complain that Barclays Bank UK PLC won't refund the money they lost when they were the victims of a scam.

## **What happened**

Mr and Mrs T were having their property renovated and, in July 2023, they received an email which appeared to be from their project manager asking for them to make a payment. As they believed the email had come from their project manager, Mr and Mrs T then made a payment of £5,000 from their Barclays account to the account details the email gave them.

Unfortunately, we now know the project manager's emails had been hacked, and the email and request for payment Mr and Mrs T received had come from a scammer. The scam was uncovered when Mr and Mrs T didn't receive any acknowledgement of their payment and so contacted the project manager, who confirmed they hadn't requested the payment. Mr and Mrs T then reported the payment they had made to Barclays as a scam.

Barclays investigated but said it felt Mr and Mrs T didn't take reasonable steps to check if the payment was genuine and that it had shown them a warning before the payment to try to prevent the scam. It said it had recovered £1.12 from the bank the payment was sent to, but didn't agree to refund the rest of the money they lost. Mr and Mrs T weren't satisfied with Barclays' response, so referred a complaint to our service.

One of our investigators looked at the complaint. They thought Mr and Mrs T should have had some concerns about what was happening, but also that the warning Barclays had shown them wasn't effective. So they thought Mr and Mrs T and Barclays should share the responsibility for the loss, and Barclays should refund 50% of the money Mr and Mrs T lost. Barclays disagreed with our investigator, so the complaint 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.

In broad terms, the starting position in law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

Barclays is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This code requires firms to reimburse customers who have been the victim of authorised push payment scams, like the one Mr and Mrs T fell victim to, in all but a limited number of circumstances. And it is for the firm to establish that one of those exceptions to reimbursement applies.

Under the CRM code, a firm may choose not to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made
- The customer made the payment without a reasonable basis for believing that:
  - o the payee was the person the customer was expecting to pay;
  - o the payment was for genuine goods or services; and/or
  - o the person or business with whom they transacted was legitimate

There are further exceptions within the CRM code, but these don't apply here.

*Did Mr and Mrs T have a reasonable basis for belief when making the payment?*

Barclays has argued that Mr and Mrs T didn't have a reasonable basis for belief when making this payment. And while I appreciate they have been the victims of a cruel scam, I do think there were a number of things about what was happening here that should have caused them significant concern.

The email they received asking for the payment specifically said it was separate from the work they were doing and would be a private and personal favour. It said the project manager owed a number of outstanding payments and asked for an interim loan to help cover these. But I think this is an unusual request for a project manager to make of a client they were working with, and so I think the nature and details of the request should have caused Mr and Mrs T some concern.

The bank account details the email gave for the project manager were for an account held in the UK. But Mr and Mrs T have said their previous payments to the project manager had gone to an account held abroad, where the property was and where the work was being done. So I think being asked to make the payment to a different account, and in a different country, to payments they'd made to the project manager before should also have caused them concern.

Barclays has also shown that Mr and Mrs T were shown a warning message before making the payment, which warned them that scammers could intercept emails and invoices and change bank details to their own. It also suggested they should call the person they were paying to confirm the request and the account details. And as Mr and Mrs T had received what I think was an unusual request for payment, I think this warning should have resonated with them and caused them concern about what was happening. But they don't appear to have taken the steps suggested in the warning.

I sympathise with the position Mr and Mrs T have found themselves in and I appreciate that they have been the victims of a cruel scam where the emails they received came from the project manager's genuine email address. But I think there were a number of things here which, taken together, should have caused them significant concern. And I don't think they did enough, or that the seemingly genuine parts of what was happening should have been enough, to overcome or satisfy those concerns. So I think Barclays has established that Mr and Mrs T made the payment without a reasonable basis for belief that it was genuine.

Barclays has therefore established that one of the exceptions to reimbursement under the CRM code applies here, and so it does not have to refund Mr and Mrs T all the money they lost.

*Did Barclays meet its obligations under the CRM code?*

Even though I don't think they had a reasonable basis for belief when making the payment, Mr and Mrs T may still be entitled to a refund of some of the money they lost if Barclays

didn't meet its obligations under the CRM code – one of which is to provide effective warnings when it identifies a scam risk.

Barclays has argued that the payment Mr and Mrs T made wasn't unusual activity for their account, and so it shouldn't have been expected to identify a scam risk here. But I disagree.

The payment Mr and Mrs T made here was for what I consider to be a significant amount of money. It was also for a larger amount than the vast majority of payments made out of their account in the previous months. And it left the balance of their account overdrawn, which was unusual for their account.

Barclays has said Mr and Mrs T had made payments of similar amounts previously. But while there had been payments out of their account for similar or larger amounts, this had only happened twice in the nine months before the scam – which I don't think is enough to establish these kinds of payments as normal activity for the account.

So I think Barclays should have identified a scam risk as a result of the payment Mr and Mrs T made here, and shown them an effective warning before allowing it to go through.

The CRM code says that an effective warning should enable a customer to understand what actions they need to take to address a risk and the consequences of not doing so. And it says that, as a minimum, an effective warning should be understandable, clear, impactful, timely and specific.

Barclays has sent us a copy of the warning Mr and Mrs T were shown before making the payment, which said:

***“Could this be a scam?”***

*Scams can happen to anyone and they can cause real distress. If someone is telling you which of the following options to choose, stop – this is a scam. Don't proceed and follow our guidance.*

*Call the company or person directly to confirm the request and account details before you pay. Use a number from a trusted source like an official website – not the one listed on an invoice or email.*

*Scammers intercept emails and invoices and can change bank details to their own.*

*They can create bills and invoices that look genuine or contact you to say an urgent payment needs to be made. Always contact a company directly before making a payment.*

*If someone you know asks you to make a payment on their behalf, always speak to them in person first.*

***Stop. Challenge. Protect.***

*I've read the warning and completed the checks you've suggested on the payment and payee. I understand I could lose my money if this turns out to be a scam.”*

But while this warning does highlight that scammers can intercept emails and change bank details and suggests calling to confirm the account details which, as I explained above, I think should have caused Mr and Mrs T some concern, I don't think it is clear or impactful enough to be effective in these circumstances.

I don't think the warning does enough to explain what a scammer intercepting an email could look or feel like for a potential victim. It initially mentions being told which options to choose, which wasn't relevant to Mr and Mrs T. And I don't think it does enough to highlight the seriousness of the potential consequences of sending money to a scammer.

So I don't think this warning was effective in Mr and Mrs T's circumstances, and so I don't think Barclays has met its obligations under the CRM code here.

### *Summary*

Overall then, I think Barclays has established that Mr and Mrs T made the payments without a reasonable basis for belief that they were genuine. But I also think Barclays failed to meet its obligations under the CRM code.

Where this is the case, the CRM code sets out that Mr and Mrs T are entitled to a refund of 50% of the money they lost. And so I think this would be a fair resolution to this complaint.

### *Recovery*

We expect banks to take reasonable steps to try to recover the money their customers have lost, once they are made aware of a scam.

But from the evidence I've seen, Barclays contacted the bank the money was sent to within a reasonable period of time after it was made aware of this scam. So while unfortunately only a relatively small amount of the money could be recovered, I don't think anything I would reasonably have expected Barclays to have done would have led to any more of the money Mr and Mrs T lost being recovered.

### *Customer Service*

Barclays has offered to pay Mr and Mrs T £100 as compensation for its delays and poor communication during her claim. And, from the evidence I've seen, I think this offer is fair and reasonable compensation for the distress and inconvenience this poor customer service caused to Mr and Mrs T.

## **My final decision**

For the reasons set out above, I uphold this complaint in part and require Barclays Bank UK PLC to:

- Refund Mr and Mrs T 50% of the money they lost as a result of this scam – totalling £2,500
- Pay Mr and Mrs T 8% simple interest on this refund, from the date it initially responded to their claim until the date of settlement

- Pay Mr and Mrs T £100 compensation, if it has not already done so

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs T to accept or reject my decision before 14 June 2024.

Alan Millward  
**Ombudsman**