

The complaint

Mr D complains that Barclays Bank UK PLC (Barclays) won't refund money he lost in a holiday scam.

What happened

What Mr D says:

Mr D was looking into flights to Mauritius online. He found a travel website and someone purporting to be from that company called him. He said he could give a good deal and quoted a price of £517 per adult and £60 for a child – total cost £1,094. He said the prices were changing and Mr D should pay money quickly to get the price offered.

The person sent a payment link via WhatsApp and Mr D paid a deposit and then two further amounts using his Visa card:

Date	Payment	Amount
9 February 2023	Visa	£310.59
24 February 2023	Visa	£617.27
24 February 2023	Visa	£651.88
Total		£1,579.74

The third payment was said to be a mistake and Mr D was told it would be refunded, but it wasn't. No tickets arrived and Mr D tried to call the person but there wasn't any answer.

Mr D called the travel company who said the person didn't work for them. Mr D then realised he'd been scammed. Mr D contacted Barclays and initially said his phone had been hacked and he didn't authorise the transactions.

Barclays showed he had authorised the payments using his Visa card – and so it was considered as an 'Authorised Push Payment' scam.

Because of the scam, Mr D has been left short of money and his account went overdrawn. He says he and his wife's mental health has suffered as a result.

What Barclays said:

Barclays showed he had authorised the payments using his Visa card – and so rejected Mr D's claim for that reason.

Mr D then said to us he had been tricked into making the payments and so it was considered as an 'Authorised Push Payment' scam; and the complaint was brought to us to consider.

Our investigation so far:

Our investigator didn't uphold Mr D's complaint. The payments couldn't be considered suspicious or unusual – as they were low value transactions. There weren't any warnings about the merchant to who the money was paid.

A chargeback couldn't be considered as the chargeback rules don't cover payments made as part of a scam.

Mr D asked that an ombudsman looks at his complaint, and so it has come to me to make 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.

It looks like the scammer intercepted the real company's email or spoofed it – and so posed as working for the travel company.

I'm sorry to hear that Mr D has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr D didn't intend for the money to go to a scammer, he is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, 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 that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make 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.

I need to decide whether Barclays acted fairly and reasonably in its dealings with Mr D when he made the payments, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply in this case. That is because it applies to faster payments made to a UK beneficiary– but in this case, the payments were made by debit card with an online link provided via WhatsApp.

The important matter here is whether this were payments that Barclays might reasonably have considered unusual, and therefore whether they should've held or stopped the payments and contacted Mr D about them.

I looked at Mr D's account history with Barclays. And I don't think the payments were unusual for him. For example, there were frequent payments from the account up to between £1,000 and £1,400. So, because of that, Barclays didn't have to stop the payments.

And there's also a balance to be made; Barclays has certain duties to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction as this would cause unnecessary disruption to legitimate payments. And here – these were payments and for relatively low amounts.

Therefore, in this case, I think Barclays acted reasonably in processing the payments – I don't think that I could reasonably say that Barclays should have stopped the payments for further checks.

Chargeback:

I considered whether Barclays could've tried to get a refund under the chargeback process and rules.

The chargeback process is a voluntary one – customers are not guaranteed to get money refunded, and there are strict scheme rules in place by the card schemes (e.g. Visa and Mastercard) which govern chargebacks.

This was an authorised Visa debit card payment and a chargeback claim had no reasonable prospects of success. This is because the card rules for chargebacks don't cover scams.

I'm sorry Mr D has had to contact us in these circumstances. I accept he's been the victim of a cruel scam, and has explained the impact the scam has had. But I can't reasonably hold Barclays responsible for his loss. **(continued)**

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 1 July 2024.

Martin Lord
Ombudsman