

## **The complaint**

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

## **What happened**

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

Mr and Mrs F wanted to purchase an airline ticket for Mrs F's mother. Mr F found a flight advertised online with an airline that he'd used before. He tried to book the ticket online but was unable to. So, Mr F called the telephone number he found online – which he believed to be genuine.

The agent Mr F spoke with, that we now know turned out to be a scammer, advised him that the ticket would cost just over £800. A flight itinerary was sent to Mr F, and he was asked to provide payment to secure the booking. Mr F then proceeded to provide the scammer with his card details with the expectation the amount would be paid in full. Only part of the payment, £435, was taken and this was processed on 20 January 2024. The scammer then told Mr F that the remaining amount needed to be paid but this wasn't successful. Mr F says he then, after looking more closely at it, thought the flight itinerary looked suspicious and he tried calling them, but they didn't answer.

Mr F contacted Barclays to request the £435 payment be stopped and the funds returned to his account. He then booked another legitimate flight for his mother-in-law.

Barclays submitted a chargeback claim on 29 January 2024, and temporarily credited Mr and Mrs F's account with £435 (received on 31 January 2024). The chargeback was however rejected, with the merchant evidencing that two airline tickets had been purchased and the service provided (flight boarded). And so, Barclays re-debited Mr and Mrs F's account on 26 February 2024.

A complaint was raised. Mr F said he never travelled with that airline, nor did he know the names of the individuals that did. He wanted the money returned to his account.

Barclays didn't uphold the complaint. They acknowledged that Mr F had fallen victim to a scam but explained they hadn't done anything wrong. Barclays said the payment wasn't covered under the Contingent Reimbursement Model (CRM) code as it was made by debit card. And from reviewing prior account usage, the payment wasn't out of character and so they wouldn't have had reason to stop it. Because of this, they acted fairly and reasonably and wouldn't be offering a refund. Barclays further added that the dispute was raised correctly for this transaction – but it was closed when Mr F didn't respond to correspondence sent to him.

Mr and Mrs F referred their complaint to the Financial Ombudsman. Our Investigator didn't however think Barclays had to do anything further. She explained that, considering Mr and

Mrs F's normal account usage, the payment wasn't particularly unusual or suspicious in appearance whereby she would've expected Barclays to have intervened before processing it. Nor was there any warning about the airline, the merchant the payment went to, which should've flagged the payment on Barclays' system.

Our Investigator considered the chargeback claim raised by Barclays. She explained that, unfortunately, chargebacks don't cover scams and, while Mr F was tricked by the scammers, the merchant (airline) had fulfilled their side of the contract by issuing tickets for flights that had been used.

Mr and Mrs F disagreed and so the matter has been passed to me to decide. In short, they added:

- There are records with Barclays showing that Mr F informed them the transaction wasn't genuine, and requested for it to be cancelled, before the bank had even started their investigation. Mr F had extensive conversations with Barclays about this transaction.
- Barclays didn't allow the second scam payment to be processed, and they question why when the first one wasn't stopped.
- Barclays has the right to trust him and his wife due to the circumstances of the case.
- They didn't receive the correspondence from Barclays saying the dispute was unsuccessful.
- They think their money should be paid back, along with an apology from Barclays for the inconvenience they've caused them.

### **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.

Before I go on to explain the reasons for my decision, I want to make it clear that there is no doubt that Mr and Mrs F have been the victims of a scam. Nor is there any suggestion that Mr or Mrs F are to blame for what happened. But, sadly, scams like this have become common. And while there are certain obligations on banks to protect consumers and prevent losses to scams in certain circumstances, these are not absolute. And so, there are unfortunately occasions where a consumer will lose out, through no fault of their own, but have no recourse to a refund.

I'm very sympathetic to Mr and Mrs F's situation and the loss they've suffered. But while I accept they were deceived by a scammer, I must consider whether Barclays is responsible for the loss they've suffered. I know this won't be the outcome Mr and Mrs F are hoping for but, for similar reasons as our Investigator, I don't think they are. It follows that I don't think Barclays has acted unfairly by not refunding the payment. I'll explain why.

My first consideration is in relation to the CRM code which can offer a potential means of obtaining a refund following scams like this one. But as Barclays explained, this payment isn't unfortunately covered under it. This is because the CRM code doesn't cover debit card payments. I've therefore considered whether Barclays should reimburse Mr and Mrs F under any of their other obligations.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. It isn't disputed that Mr F authorised the payment(s) by providing the scammer with his card details. Therefore, under the Payment

Services Regulations 2017 and the terms of their account, Barclays are expected to process the payment, and Mr and Mrs F are presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for Barclays to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

So, the starting point here is whether the instruction given by Mr F to Barclays was unusual enough to have expected additional checks being carried out before the payment was processed.

When considering this, I've kept in mind that banks process high volumes of transactions each day. And that there is a balance for Barclays to find between allowing customers to be able to use their account and questioning transactions to confirm they're legitimate.

Here, the payment was made to a legitimate airline company – albeit I accept not to the airline, or for the flight ticket, Mr F intended. Nevertheless, this would've appeared to Barclays as a genuine payment. And the payment amount, £435, wasn't out of character based on Mr and Mrs F's prior account usage – as they'd made transactions of a similar or greater amount. Because of this, I don't think Barclays would have had sufficient reason to suspect Mr and Mrs F were at risk of financial harm. I therefore think it was reasonable for Barclays to assume the payment was being made for legitimate purposes, and so I wouldn't have expected Barclays to have taken additional steps or carried out additional checks before processing it.

I've considered whether, on being alerted to the scam, Barclays could reasonably have done anything more to recover Mr and Mrs F's losses, but I don't think they could. At which point, I'd like to firstly acknowledge that there isn't any suggestion of mistrust on Mr and Mrs F's part. Nor is it in dispute that Mr F contacted Barclays shortly after the payment was made to try to stop it being paid. Unfortunately, however, given the payment was authorised by Mr F and had already been processed, the only possible option for recovery here, given the payment was made by debit card, would have been via chargeback – which Barclays submitted on 29 January 2024.

Chargeback is a voluntary scheme run by the card scheme operator, here it's Visa, to process settlement disputes between the card issuer (Barclays) on behalf of the cardholder (Mr F) and the merchant – the airline company Mr F made the payment to. It isn't a legal right that the cardholder has.

Visa sets the chargeback rules for transactions made using their card scheme, and it is Visa that decides whether a chargeback is successful. A chargeback isn't guaranteed to result in a refund. And under the card scheme rules, the merchant – in this case, the legitimate airline company that received the payment – can defend the chargeback, which is what happened here.

The merchant, as part of their defence of the chargeback, provided evidence to show two airline tickets were purchased that had both been used. Because of this, they said the service Mr F paid for had been provided. I appreciate Mr F fell victim to a scam and was tricked into purchasing these tickets. Unfortunately, however, the chargeback rules don't cover scams. And the merchant fulfilled their side of the contract here – as they provided the service, that being the two flights, that were paid for.

On a final note, I'm aware Mr and Mrs F have questioned why a second payment attempted by the scammer was stopped by Barclays, whereas the £435 wasn't. And they've highlighted that they didn't receive correspondence from Barclays about their chargeback claim being declined. Although I understand their concerns on these issues, I can't say Barclays acted wrongly by stopping the second payment attempted by the scammer – as it helped protect Mr and Mrs F from further loss. And even though Mr and Mrs F may not have received the chargeback correspondence from Barclays, I don't think this changes the outcome that was reached. That being, Barclays acted appropriately by submitting the chargeback claim but that it was unfortunately rejected by Visa due to merchant's defence.

I have a great deal of sympathy for Mr and Mrs F and the loss they've suffered. But it would only be fair for me to direct Barclays to refund their loss if I thought Barclays was responsible – and I'm not persuaded that this was the case. For the above reasons, I think Barclays has acted fairly and so I'm not going to tell them to do anything further.

### **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 F and Mrs F to accept or reject my decision before 29 November 2024.

Daniel O'Dell  
**Ombudsman**