

## The complaint

Mr A and Ms P complain that Barclays Bank UK PLC ('Barclays') won't refund the money they say was lost as the result of a scam.

## What happened

Mr A and Ms P were looking for substantial work to be completed on a property and posted an advertisement on a website looking for a tradesperson. Mr A and Ms P say they received a few quotes but decided to go with a company I'll refer to as G. They say the quote from G was only slightly higher than the other quotes they'd received but it was all inclusive.

Mr A and Ms P were dealing with two people who worked for G, who I'll refer to as B and N. B provided them with the original design plan and introduced N as the principal & project manager, as well as three other people.

Mr A and Mrs P made the following payments from their Barclays account.

Date	Pmt no	Details of transaction	Amount
21.12.2022	1	Bank transfer to G	£1,440.00
11.1.2023	2	Bank transfer to G	£44,769.70
20.1.2023	3	Bank transfer to G	£43,065.96
27.1.2023	4	Bank transfer to G	£15,829.50
5.2.2023	5	Bank transfer to G	£15,829.50
11.2.2023	6	Bank transfer to G	£15,829.50
21.2.2023	7	Bank transfer to G	£15,829.50
25.2.2023	8	Bank transfer to G	£15,829.50
2.3.2023	9	Bank transfer to G	£6,765.36
7.3.2023	10	Bank transfer to G	£15,829.50
13.3.2023	11	Bank transfer to G	£15,829.50
15.4.2023	12	Bank transfer to G	£4,397.48
15.4.2023	13	Bank transfer to G	£4,397.48
15.4.2023	14	Bank transfer to G	£4,397.48
23.4.2023	15	Bank transfer to G	£4,397.48
16.5.2023	16	Bank transfer to G	£11,832.00
16.5.2023	17	Bank transfer to G	£4,397.48
16.5.2023	18	Bank transfer to G	£5,074.02
22.5.2023	19	Bank transfer to G	£14,790.48
24.5.2023	20	Bank transfer to G	£871.20
24.5.2023	21	Bank transfer to G	£5,655.00
24.5.2023	22	Bank transfer to G	£3,871.80
		<b>Total payments</b>	<b>£270,929.42</b>

Some of the concerns Mr A and Ms P have with the work completed by G include:

- There were significant delays.
- There was poor workmanship which resulted in damage, and work having to be redone to meet required standards.
- N lied about their qualifications and didn't get the necessary approvals from the local authority or building control.
- Many of G's subcontractors haven't been paid and are taking legal action against G.
- Other clients are in the same position, with contracts not being completed and poor-quality workmanship on what has been done.

Mr A and Ms P raised a fraud claim with Barclays in August 2023, asking that they be refunded. Barclays declined to refund Mr A and Ms P saying they have a civil dispute with G. Unhappy with Barclays' response, Mr A and Ms P brought a complaint to our service.

An investigator looked into Mr A and Ms P's complaint but didn't uphold it. The investigator wasn't satisfied their payments met the definition of an APP scam under the Contingent Reimbursement Model Code (CRM Code). And, if Barclays had intervened, Mr A and Ms P's loss wouldn't have been prevented.

Mr A and Ms P disagreed with the investigator's opinion and provided a substantive response. As part of this they said:

- Multiple clients of G are in the same situation which shows that G has acted fraudulently.
- N misled them by saying he was the director of G when his wife was the director.
- Reviews and photos on G's website are fraudulent. G has posted misleading photos from the work completed on their property on the website.
- Subcontractors have not been paid, were illegally employed and paid cash-in hand or weren't qualified.
- N has committed false representation under the Fraud Act 2006.
- G had no intention to complete the work from the outset.
- Trading Standards have completed an investigation and decided that G has breached "criminal consumer law."
- Their money wasn't used for the intended purpose or legitimate purposes.
- They provided written evidence from other contractors or builders which suggests that the work was not done to the required standards and substantial rework is needed.
- Mr A and Ms P referred to another complaint that our service issued a decision on, saying it has similar circumstances to their complaint and suggests this complaint should be upheld.

Mr A and Ms P asked for an ombudsman to review their case.

Mr A and Ms P also provided evidence from Trading Standards in relation to G which said:

- Written advice/warnings have been issued to G in regard to its contractual and legal obligations in dealing with customers.

- No criminal proceedings had been brought at the date of the email - June 2024.
- The companies conduct will be monitored by Trading Standards.

Mr A and Ms P provided a further substantive response after the deadline for responses had expired, which I have reviewed and considered in reaching my answer on their case.

### **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.

I'm really sorry to hear about the serious impact the loss of these funds has had on Mr A and Ms P's wellbeing. I understand that they lost a significant amount of money and will have to pay further funds to complete the project and rectify work that G completed.

However, I'm not making a finding on whether G owes Mr A and Ms P money, rather I have to decide whether or not Barclays can fairly be held liable for their loss.

Also, while I've considered all the points they've raised, I'll focus my decision on what I consider to be the key reasons and evidence in reaching my answer.

In broad terms, the starting position in law is that Barclays are expected to process payments that a customer authorises it to make, in accordance with the terms and conditions of the customer's account and the Payment Services Regulations (PSR's).

However, Barclays are a signatory of the CRM Code. The CRM Code requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams, in all but a limited number of circumstances.

The CRM Code does not apply to private civil disputes, such as where a customer has paid a legitimate supplier for goods, services or digital content but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier.

The CRM Code defines what is considered an APP scam and this includes where the customer transferred funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent.

So, I can only apply the CRM Code to Mr A and Ms P's payments or consider Barclays' liability to them under the CRM Code, if I'm satisfied that the payments were made as part of an APP scam. As opposed to a situation where G didn't fulfil the contract with Mr A and Ms P, or they're dissatisfied with the quality of the work that was completed, which would be considered a civil dispute not covered by the CRM Code.

### **Are Mr A and Ms P entitled to a refund under the CRM Code?**

In deciding whether the circumstances under which Mr A and Ms P made their payments meets the definition of an APP scam, I need to consider:

- The purpose of the payments and whether Mr A and Ms P thought this purpose was legitimate.
- The purpose the recipient (G) had in mind at the time of the payments and whether this was broadly in line with what Mr A and Ms P understood the purpose to be.
- And, if I decide there was a significant difference in these purposes, whether I'm satisfied that was as a result of dishonest deception.

Mr A and Ms P were making payments to G for building work to be completed at their property. I haven't seen anything that suggests Mr A and Ms P didn't think this was a legitimate purpose.

So, I've gone on to consider what purpose G had in mind and whether it was in line with what Mr A and Ms P thought.

In reaching an answer on what purpose G had in mind, the key information is:

- G became a UK incorporated company in April 2022. While there was a notice for strike off in August 2024, this was discontinued in October 2024. At present, G is still a trading company. B was a director of G from December 2022 until September 2023, when they resigned. N was appointed as a director in September 2023 and is still in that role. So, it appears that G had been trading prior to them agreeing the work on Mr A and Ms P's house.
- Mr A and Ms P have referenced other companies that N has been involved with, which have dissolved, gone into liquidation, been struck off or had negative reviews online. However, those companies weren't part of their contract with G for the work that was being completed, and N wasn't a director of G at the time Mr A and Ms P made their payments.
- Mr A and Ms P have provided evidence from trading standards, but this evidence doesn't support that G had a different purpose in mind when Mr A and Ms P made the payments. Trading standards say they issued written advice/warnings to G in regard to its contractual and legal obligations in dealing with customers. Also, trading standards say that at present there are no criminal proceedings against G. This doesn't support that G obtained funds through dishonest deception, but rather supports poor business practices or mismanagement – which wouldn't meet the bar for Mr A and Ms P to have an APP scam under the CRM Code.
- We've received information from the receiving bank that I can't share due to data protection issues. But this doesn't support that Mr A and Ms P funds weren't used for the intended purpose.
- Mr A and Ms P say that contractors and staff of G haven't been paid and have provided documentation from an employment tribunal as well as testimony and witness statements. Most of these relate to a separate company, not G. Those that do relate to G, point to poor management or mismanagement of the company, but don't show that G took Mr A and Ms P's funds with a different purpose in mind or with no intention of doing the work.
- Having reviewed the evidence Mr A and Ms P have provided from other clients of G, including negative reviews posted about G, these point to dissatisfaction with the work which is a quality of goods issue, or mismanagement of the company. There isn't any evidence that shows G's intention at the time the payments were made by Mr A and Ms P.
- I understand that Barclays told Mr A and Ms P to not make any further payments to G when they raised their fraud claim in August 2023. But this doesn't show that Barclays has concerns about G at the time Mr A and Ms P made their payments between December 2022 and May 2023.

Mr A and Ms P say there has been fraud committed under the Fraud Act 2006, specifically misrepresentation in relation to qualifications. However, while misleading Mr A and Mrs P in

relation to the experience and qualifications of contractors/employees may be a breach of contract and the Fraud Act 2006, it doesn't evidence that G took the payments with no intention to complete the work. So, a breach under the Fraud Act 2006, doesn't necessarily mean that Mr A and Ms P have an APP scam claim as defined by the CRM Code.

Mr A and Ms P have referred to an investigation being undertaken by the Insolvency Service, but it's unclear if that investigation has concluded or what, if any, conclusions were reached. However, I'm satisfied that I have sufficient evidence to reach an answer on whether or not Mr A and Ms P are entitled to a refund under the CRM Code, based on the evidence we already have.

It may be that material new information comes to light at a later date, for example as the result of an investigation by Trading Standards, the Insolvency Service or the police. In that situation, Mr A and Ms P can ask Barclays to reconsider their fraud claim. But that new evidence would need to show that G took the funds with a different intention in mind.

Having carefully considered all of the evidence that Mr A and Ms P have provided, I'm not satisfied that they have proven G took their funds with a different purpose in mind or with the intention of not completing the work. So, I'm not satisfied that they have met the definition of an APP scam under the CRM Code or that Barclays can't fairly be held liable under the standards set by the CRM Code.

Is there any other reason I could hold Barclays liable for Mr A and Ms P's loss?

There is an expectation for Barclays to be on the lookout for, and to protect its customers from, potentially falling victim to fraud or scams. This includes monitoring accounts and identifying suspicious activity that appears out of character. Where potential fraud is identified, I would expect Barclays to intervene and attempt to prevent losses for the customer.

However, even if Barclays had intervened or should've intervened, I'm not satisfied that this would've prevented Mr A and Ms P's loss. I say this as I would expect that intervention to involve Barclays asking Mr A and Ms P questions about the purpose of the payment, how they found G and what information they had about G. Based on what Mr A and Ms P knew at the time, I'm not persuaded that the information they would've given should've concerned Barclays. G was a UK incorporated company that operated in the building industry, Mr A and Ms P had met the director and some contractors at their home to discuss the work they wanted to be completed and the quote hadn't been too far outside other quotes they'd received.

So, I can't fairly say that Barclays acted unreasonably in following Mr A and Ms P's payment instructions.

Having carefully considered all of the evidence, I am not satisfied that I can fairly hold Barclays liable for Mr A and Ms P's loss or ask Barclays to refund them.

### **My final decision**

My final decision is that I don't uphold this complaint against Barclays Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A and Ms P to accept or reject my decision before 27 May 2025.

Lisa Lowe

**Ombudsman**