

The complaint

Mr S and Mr S complain that Barclays Bank UK PLC did not refund a series of payments they say they lost to a scam.

As Mr S is the main complainant and recipient of the funds in the Barclays Bank UK PLC account, I will mostly refer to him throughout this decision. This is not meant as a discourtesy to his father, Mr S.

What happened

All parties are aware of the circumstances of the complaint, so I won't repeat them again in detail here. In summary, Mr S says he fell victim to a scam after an individual I'll call 'X' befriended him and convinced him to invest in his business. The funds invested was a lump sum of compensation following a traumatic brain injury into a trustee account with Barclays.

Between August 2019 and July 2021, the majority of the £300,000 compensation was either transferred to another account in Mr S's name or was withdrawn as cash in the Barclays branch. In January 2022, Mr S felt he had been the victim of a scam and contacted the police and eventually Barclays to report this. Barclays offered Mr S £200 compensation for delays in looking into his complaint and confirmed the investigation was ongoing, but it was complex so was taking some time.

Mr S referred the complaint to our service and our Investigator looked into it. In the end they did not think there was enough information on file to evidence Mr S had been the victim of a scam. This is because Mr S had not been able to provide any communication between himself and X other than one e-mail which did not provide any context for what happened. And the statements did not show the payments going to X directly.

Mr S's representatives did not agree with the outcome. Amongst other things, they felt Barclays should not have allowed payments to debit the current account without the permission of both trustees, which included Mr S's father. And they felt the loss would have been avoided had Barclays followed the correct process. The complaint was passed to me, and I issued a provisional decision which read as follows:

Broadly speaking, the starting position in law is that an account provider such as Barclays is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the account. And a customer will then be responsible for the transactions that they have authorised. It is not in dispute that Mr S authorised the transfers and withdrawals from the current account with Barclays. However, he says that he was the victim of an authorised push payment ("APP") scam.

I've therefore considered whether the payments Mr S has raised as part of the scam claim were made as the result of a scam which he was the victim of. In order to determine if Mr S has been the victim of a scam, I have to consider if the definition of an APP scam has been met. I have set out this definition below:

...a transfer of funds executed across Faster Payments...where:

(i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or

(ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.

When considering if Mr S's complaint meets the definition of an APP scam, I have to look at all of the available evidence on file. While I appreciate the scam happened some time ago and Mr S knew X in person, so there may not be as much written down, I would still expect to see some form of evidence showing what was discussed and agreed to. However, I have not been provided with any evidence showing what was discussed about the investment, what the purposes of any of the payments were or what the terms of the investment were.

Without having a clear indication of what Mr S understood the investment to be at the time and what X presented the opportunity as, it is difficult for me to say what he understood the purpose of the payments to be, if X's intended purpose for the payment differed and if any mismatch was the result of deception on X's part.

I note Mr S has said the police did not pursue the investigation further as he would not be able to attend court, due to his vulnerabilities. However, I've reviewed the police report provided to our service, and I can see they made the decision not to pursue a conviction against X, as the high threshold of the burden of proof could not be met. I acknowledge that our service does not apply the same test when considering a case. Mr S's representative has highlighted that in the police report X did accept he owed Mr S money and that he asked for more than he needed at times and he thinks this shows X scammed Mr S.

Having reviewed the police report, it also shows some of the details put forth by Mr S have been disputed by X, such as the amount owed and the manner in which he was paid. There are further discrepancies on the report about what Mr S said the nature of the investment was compared to what he has told our service. And there have been allegations that Mr S fabricated some of the story about what the investment was for in order to appease his partner. Overall, I think the police report raises further questions and does not support that X scammed Mr S in the way that he has described. Considering the lack of available evidence and the discrepancies that I have seen, I don't currently think it's more likely that Mr S was the victim of a scam and instead this appears to be a civil dispute between Mr S and X.

I want to acknowledge Mr S's medical conditions and I understand that he has been severely affected by the situation he has found himself in. I can see his representatives have said this complaint should be upheld in light of his vulnerabilities. However, I firstly have to consider whether or not I think Mr S has been the victim of a scam, before I can consider whether his vulnerabilities made him more susceptible to the particular scam that he was victim to. As I've explained above, on balance I haven't seen enough for me to be satisfied he has been the victim of a scam in the way he has described, so I don't think Barclays need to reimburse him in the circumstances.

I've also considered the comments made by Mr S's representatives about the account he held with Barclays, and that his father who was also a named party on the account should have been asked for joint authority for the large withdrawals. They have said that if Barclays had followed the correct process, they could have prevented the loss that was incurred.

I've considered this and looked into the type of account Mr S and his father held. While this was set up specifically for the compensation Mr S received following his traumatic injuries and has been referred to as a trust, this was a regular joint current account with some restrictions applied, for example a trustee cannot obtain a credit card, apply for an overdraft or access the mobile app. And Barclays has confirmed this is the usual process for account

of this nature.

I can see the account was set up as either-party to sign, meaning one party was able to withdraw funds without the other party needing to authorise it. And this was confirmed in the account opening documentation that both Mr S and his father agreed to. I therefore do not think Barclays made an error when they allowed Mr S to carry out high value transfers and withdrawals without contacting his father first for permission. I can also see that the account was set up for Mr S's father to receive monthly statements for the account and these were sent to the address we hold on file for him. So, I think it would have been clear that funds were being spent on the account over the course of the two years the payments occurred in.

Having carefully reviewed the evidence available to me so far, I currently do not think Barclays made an error when they allowed the payments to be processed from the account. And I don't think they need to reimburse Mr S with the funds he has raised as part of the claim.

I want to acknowledge the difficult situation Mr S has found himself in and I don't want to take away from the losses he has incurred. But the evidence I have seen so far suggests to me this is more likely a civil dispute between Mr S and X, and I currently do not think it would be fair or reasonable to ask Barclays to reimburse his loss.

Mr S's representatives responded with a number of points. In summary they said:

- Mr S's father had not received statements on the account despite being told he would when it was opened. And he was told Mr S would not be able to withdraw more than £300 without approval from his father.
- A scam had occurred and this was evidenced by X admitting to it in his police interview. And they said the allegations Mr S fabricated the story were made by X who is a convicted fraudster.
- Barclays had not carried out a timely and thorough investigation into the claim, and they had not paid Mr S the £200 compensation they offered him.
- The crux of complaint is that Mr S informed a member of staff that he was making payments under duress and was being scammed, but the bank took no action.
- They were told by Barclays that a complex signing arrangement should have been set up on the account, instead of the simple one that appears to have been used. And they provided all of the relevant medical documents for Barclays to set up an appropriate account to protect Mr S.

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 have carefully reviewed all of the comments and evidence put forth on this case to come to an outcome I feel is fair and reasonable in the circumstances.

Firstly, I would like to acknowledge that Mr S' account was set up so that only the first named account holder, in this case Mr S, would receive statements. And this is why his father, who was the second named account holder, did not receive any. I have already explained the parameters of Mr S's account with Barclays and that Barclays followed the processes of the account when processing the payments and withdrawals in question.

I understand Mr S' representative has now said this type of account should not have been opened in the first place and that additional restrictions should have been applied but weren't, for example they have mentioned a complex signing agreement should have been

used instead of a simple one. However, it should be noted that the alleged errors in the account opening process have not formed part of this complaint when it was initially brought to both Barclays and our service, so I don't think it would be reasonable for me to consider these comments further as part of this complaint.

It has been mentioned that a key part of this complaint is that Mr S told Barclays staff he was being forced to make the payments and was doing so under duress. However, I cannot see this was mentioned when the complaint was raised and having reviewed the account notes made when the payments in branch were processed including the cash withdrawals, I cannot find any note of Mr S making a comment such as this. He mentioned purchasing a car, but nothing about being forced to carry out the payments. Mr S' earlier complaint letters state he actively misled the bank when making transfers or payments, so I think it is unlikely he also told a member of staff he was being forced to make them.

It has been pointed out that X admitted in his police interview to 'skimming' money from Mr S and that this in itself is a form of fraud. In the context of the interview, this was X admitting he asked Mr S for more money than he required, but I don't think this in itself therefore means Mr S was a victim of APP fraud. As I highlighted in my provisional decision, there is a lack of evidence about the alleged scam such as messages or documentation, and the police report raises a number of inconsistencies between Mr S's story and the accounts of a number of different individuals, including his own father. With all of this in mind, I do not think the high bar of an APP scam has been met in the circumstances. And as explained above, I think Barclays processed the payments in line with the parameters of the account in question.

Mr S' representative has said he did not receive the £200 compensation offered in the final response letter on 11 March 2023. However, I can see in the letter that Barclays required confirmation that Mr S wanted to accept the payment, but they did not receive this. If Mr S would still like to accept this offer, which Barclays have confirmed is still available, he can contact Barclays directly to accept this.

My final decision

I do not uphold Mr S and Mr S's complaint against Barclays Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mr S to accept or reject my decision before 5 March 2025.

Rebecca Norris

Ombudsman