

The complaint

Miss N complains that Barclays Bank UK Plc ('Barclays') won't refund the money she lost as a result of an employment scam.

What happened

The background to this complaint is known to both parties, so I won't repeat all the details here. In summary, Miss N says:

- At the end of July 2023, she was contacted on a messaging platform by someone she later discovered was a scammer disguising as an old school friend. After messaging for a while, she was introduced to an opportunity to earn an extra income while working online from home. She was then referred to another individual (also a scammer) posing as a Team Leader, who explained what the job would involve. She was also added to a separate group chat with other 'agents' she could contact for support if needed.
- For the 'job' itself, it was explained she needed to complete set tasks each day that would generate data to help increase the popularity and rankings of certain products – and that she'd receive a base pay and commission as a result. She was provided with a link to a fake 'work' platform by the scammer. And was led to believe that to complete the tasks, she needed to deposit funds in cryptocurrency (which she bought through various legitimate crypto-platforms she'd been told to set up in her name). This cryptocurrency was then sent on to the scammer and lost.
- She was hesitant at first but believing the 'job' was legitimate and that she could stop after a time, she went on to make a series of payments from her Barclays account, between 28 July and 6 August 2023, totalling over £5,000. She realised she'd been scammed when she was repeatedly asked to pay more to complete the tasks and after speaking to a friend about what was happening.

The scam was reported to Barclays in August 2023. A complaint was raised in November 2023 and then referred to our Service. Our Investigator reviewed it but didn't uphold it. In summary, she thought it was arguable Barclays ought to have intervened on one of the transactions in August 2023 and provided Miss N with a tailored written warning about cryptocurrency investment scams. But she wasn't persuaded such a warning would have resonated with Miss N as she fell victim to a 'job scam' rather than an investment scam.

As the matter couldn't be resolved informally, it's been passed to me to decide.

Provisional decision

I issued my provisional decision to both parties on 18 September 2024. The background was set out as above, and I said I didn't intend to uphold this complaint for the following reasons:

Authorisation

*It's not in dispute Miss N was scammed and I'm sorry about the impact the whole experience has had on her. It's also not in dispute she authorised the payments from her account. So, although she didn't intend the money to go to a scammer, under the Payment Services Regulations 2017, Miss N is presumed liable for her losses in the first instance. And as the Supreme Court reiterated in *Philipp v Barclays Bank UK PLC*, banks generally have a contractual duty to make payments in compliance with the customer's instructions.*

Prevention

There are, however, some situations where I consider that a bank, taking into account relevant rules, codes and best practice, should reasonably have taken a closer look at the circumstances of a payment – if, for example, it's particularly suspicious.

In this case, looking at the activity on the account, I don't think there was enough about the disputed payments that ought to have triggered Barclays' fraud prevention systems, considering their values and the information it had available at the time. I recognise a total of around £5,000 was sent by 6 August 2023 and that payments to crypto-platforms added to the risk level presented. But it's important to note the money was sent across a number of much smaller transactions, which fluctuated in value, over a number of days. For example, most payments ranged between £24 and £500 and wouldn't have appeared as significantly out of character for Miss N's account. And, although one payment was for about £930, Miss N had made genuine larger transactions in previous months. I'm also mindful the activity of multiple payments in one day, sometimes to the same payee, wouldn't have appeared as particularly unusual for the account either.

In the circumstances, unlike the Investigator, I'm not persuaded any of the transactions were so out-of-character or that a clear suspicious pattern developed such that Barclays ought reasonably to have intervened on concerns Miss N could be at a heightened risk of fraud.

What this means is that, while I'm sorry Miss N was the victim of a cruel scam and I can understand why she wants to do all she can to recover her money, I don't think it would be fair to hold Barclays liable for her losses in circumstances where, as I've found here, it couldn't reasonably have been expected to have done more to prevent them.

Additional comments

For completeness, I'll briefly add here that even if I did find Barclays should have done more and perhaps, at a push, intervened later into the scam as the spending increased, I think it's unlikely a proportionate intervention would have unravelled the scam in any event.

This is because the messages between Miss N and the scammer, on 3 August 2023, show a payment she'd sent from her account with another bank (Bank H) had been declined. Before speaking to Bank H about the payment, the scammer told Miss N "you can call and explain to them it's a financial transaction with a friend, because if you're talking about work, it can be very cumbersome and require you to submit a lot of information". And when Miss N told the scammer she was on the phone to Bank H, the scammer repeated "if you say it's a financial transaction with a friend, then it won't be much of a problem". I've listened to the call with Bank H and it's clear Miss N followed the scammer's instructions. She told Bank H she was sending money to a friend. There was no mention of her taking part in a job online.

In other words, even if (as part of a proportionate intervention) Barclays had asked Miss N about the purpose of her payment (in an attempt to narrow down any potential scam risk present), I'm not convinced she'd have been upfront about what she was really doing at that point. On the evidence, it's likely she'd have again said she was sending a payment to a

friend. And I think it's unlikely this would have naturally led to Barclays being able to provide Miss N with a warning that would have been specific enough to her true situation at the time.

Recovery

In general, a bank should attempt to recover lost funds once a scam has been reported. In this case, the card payments were made to legitimate merchants for the purchase of cryptocurrency before this was sent on and lost to the scammer. It's therefore unlikely Barclays would have been able to facilitate a recovery of that money through a successful chargeback as Miss N would have received the services/products from the merchants as intended.

Responses to provisional decision

I invited further comments and evidence from both parties. Barclays accepted my provisional decision. Miss N did not. In summary, she said:

- It's wrong to assume she wouldn't have listened if Barclays had warned her of a possible scam. When a friend warned her that she was falling victim to a scam she stopped making payments – and she'd have done so if Barclays had warned her.
- She had no idea how scammers operate. As Barclays failed on their part to protect her, then it should at least refund some of her losses.

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've thought carefully about the points Miss N has made. I fully appreciate her comments that if Barclays had warned her, then she'd certainly have listened (as she did when her friend warned her) and her losses would therefore have been prevented.

But it's firstly important to note that Barclays can't reasonably be expected to intervene on every payment that may be the result of a scam. There's a balance to be struck between identifying payments made because of a scam and ensuring minimal disruption to legitimate ones. And, as I set out in my provisional decision, I don't think there was enough about any of the transactions (or the account activity) for Barclays to have suspected a heightened risk of fraud, such that it ought to have made further enquiries of Miss N before processing them.

I've been provided with no new information to change my view on that. And because I don't think that Barclays acted unfairly in executing any of Miss N's payment instructions, then I don't consider it can reasonably be held liable for any of her losses, even though I recognise that the payments were lost to a scam.

The additional comments I made on what I think would have likely happened if Barclays *had* intervened, were not material to the outcome of this complaint. As above, the key point is I don't think Barclays can be held liable for Miss N's losses when I wouldn't have expected it to have intervened on suspicions of fraud in the first place. My further comments were simply to note that *even if* I had found there came a point that Barclays ought to have intervened, then I'm not convinced this would have led to Miss N receiving a warning that was specific enough to her circumstances. This is because the evidence shows a degree of coaching by the scammer, which Miss N had been willing to follow, on what she should say if questioned by her bank in order to hide the true nature of her payments.

To summarise, I know this outcome will come as a disappointment to Miss N and I'm again

sorry about the impact the scam has had on her. But I don't think that Barclays acted unfairly in executing her payment instructions. I don't therefore consider it can reasonably be held liable for her losses. And, as previously explained, I'm not persuaded there were any prospects of Barclays successfully recovering any of the funds, given they were used to purchase crypto-currency from legitimate crypto-platforms.

My final decision

For the reasons given, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss N to accept or reject my decision before 1 November 2024.

Thomas Cardia
Ombudsman