

The complaint

Mr N complains that Barclays Bank UK PLC have failed to refund around £109,000 he says he lost to a builder scam.

The details of this complaint are well known to both parties. So, if there's a submission I've not addressed; it isn't because I've ignored the point. It's simply because my findings focus on what I consider to be the central issues in this complaint – that being whether Barclays was responsible for Mr N's loss.

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.

Having done so, I agree with the conclusions reached by our Investigator, and for largely the same reasons.

It isn't in dispute that Mr N authorised various payments to a builder (which I'll refer to as 'J'). Mr N says he was told 'J' was an experienced builder and was told that the total building work would cost around £130,000.

In line with the Payment Services Regulations 2017, consumers are liable for payments they authorise. Barclays is expected to process authorised payment instructions without undue delay. But Barclays also has obligations to help protect customers from financial harm from fraud and scams. Those obligations are however predicated on there having been a fraud or scam.

I'm sorry to hear of what's happened to Mr N, and I can understand entirely why he feels so strongly that this money should be returned to him. But not all cases where individuals have lost money are in fact fraudulent and/or a scam; and from the evidence I've seen, I think that applies in Mr N's case. I'll explain why.

I've considered the evidence provided by Mr N and copies of the correspondence he had with J. From reviewing those, I'm not satisfied that this is a case where J deliberately set out to scam Mr N. A written arrangement for the works was provided with an estimated cost. It appears J also told Mr N he was happy to come back and complete the works if they could agree a payment schedule to get his team back on site. I've also had the opportunity to review accounts where Mr N's funds were sent, which suggest the accounts were run with the intention of building work. So, I'm not satisfied the accounts I've seen were being run as a scam accounts.

Taking all this into account and based on the evidence that is currently available, I'm not persuaded that this situation displays the hallmarks most typically associated with a scam. The circumstances put forward by Mr N more likely lend themselves to a disagreement in how J was paid for the work, the lack of progress made and the quality of the work that was completed. It follows that, I can't safely say that this would likely meet the high legal threshold and burden of proof for fraud.

This is not to say that there is no issue at all between Mr N and 'J'. Clearly there is. But on balance, I haven't found the evidence which shows Mr N was the victim of a scam.

I don't say any of this to downplay or diminish what Mr N has been through. He has my sympathy; in that he hasn't received the building work as he thought he would. But overall, I don't think Barclays has treated Mr N unfairly by not refunding him the payment.

For completeness I've thought about what happened when the payments were made and whether Barclays missed an opportunity to prevent Mr N's loss.

I should first explain though that Barclays didn't have any specific obligation to step in when it received the payment instructions to protect its customers from money sent for building works. It's not up to Barclays to decide whether a builder is suitable and reliable. And as I've pointed out already, I'm not satisfied this was actually a scam.

So, Barclays' role here was to make the payments that Mr N had told it to make. Mr N had already decided on J and completed his own research. And I find that Barclays couldn't have considered the suitability or unsuitability of J without itself assessing Mr N's circumstances and building needs.

Taking such steps to assess suitability without an explicit request from Mr N (which there wasn't here) would've gone far beyond the scope of what I could reasonably expect of Barclays in any proportionate response to correctly authorised payment instructions from its customers.

I've also considered that the payments Mr N made here were over a long period of time and didn't appear unusual or suspicious compared to his normal account activity. As a result, I'm not satisfied there was enough happening here (even if this were to be considered a scam) that Barclays could've reasonably stopped the payments and asked further questions of Mr N.

In summary, there isn't any reasonable basis on which I can say any further intervention by Barclays before processing the payments was likely to have caused concern – as essentially – there was no persuasive evidence to uncover that Mr N was in the process of being scammed.

So, taking all this into account, I don't think *any* intervention by Barclays before processing the payments to 'J' is likely to have prevented Mr N's loss.

I appreciate this will likely come as a disappointment to Mr N, and I'm sorry to hear of the situation he's found himself in. However, in the circumstances of this complaint, I do not consider it would be fair and reasonable to hold Barclays responsible for his loss.

Mr N has said that he feels Barclays was dismissive of his claim and that he had to raise it twice before it was looked at by Barclays. I've not seen any evidence in Barclays's call notes of Mr N attempting to raise this claim more than once. When the claim was logged on 04 February 2023 I'm satisfied Barclays contacted the beneficiary banks within a reasonable timeframe.

As a result of the above, I'm not making any further award against Barclays.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 9 January 2025.

Mark Dobson
Ombudsman