

The complaint

Mr and Mrs B have complained that Barclays Bank UK PLC won't refund money they say they lost to a scam.

What happened

The details of the complaint are well known to both parties, so I will not repeat them again here. Instead, I will focus on giving the reasons for my decision.

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 investigator's findings for broadly the same reasons. I will explain why.

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 and Mrs B knowingly made the payments from their Barclays account – albeit under the direction and guidance of the scammer as they believed the investment to be legitimate. And so, I'm satisfied they authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of their account, Barclays are expected to process Mr and Mrs B's payments, and they 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 instructions given by Mr and Mrs B to Barclays were unusual enough to have expected additional checks being carried out before the payments were processed.

Our investigator is of the opinion that the £10,000 payment transferred from Mr and Mrs Barclays account to an account held in Mr B's own name (with a third party) wasn't suspicious and as such wouldn't have triggered Barclays fraud detection systems. He has explained, that based on Mr and Mrs B previous expenditure on the account, the fact Mr and Mrs B had made payments to this account previously and the fact it was going to an account in Mr B's own name (which also matched the payment purpose he had selected) meant it wouldn't have flagged as unusual or uncharacteristic. Especially considering that there is a difficult balance to be struck between firms identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments.

However, Mr and Mrs B's representative is of the opinion, the payment ought to have triggered based on the value of the payment, being sent to a newly opened EMI account and having the typical hallmarks of a scam. As I have explained above, there is a difficult balance

to be struck, and while I can appreciate the arguments for why it may not have looked suspicious, overall, I'm satisfied the payment ought to have triggered Barclays fraud detection systems. However, as the investigator has explained I don't think it would have impacted the overall outcome, I will explain why.

I've thought carefully about what a proportionate warning in light of the risk presented would be in those circumstances. In doing so, I've taken into account that many payments that look very similar to this one will be entirely genuine, proven by a previous payment Mr and Mrs B made prior to the scam payment. I've given due consideration to Barclays primary duty to make payments promptly.

In light of the that, I think that by April 2024, when these payments took place, Barclays should have had systems in place to identify, as far as possible, the actual scam that might be taking place and to provide a better automated warning relevant to that scam. But I accept that any such system relies on the accuracy of any information provided by the customer and cannot reasonably cover off every circumstance.

In this case, Mr and Mrs B was falling victim to an 'investment scam'. Therefore, I'd expect any such warning to have covered off key features of an investment scam, such as: their investment experience, how they were introduced to the investment, was there a broker and what were the promised returns. But as I have highlighted above, in order for Barclays to have generated this warning (which would have resonated with Mr and Mrs B's circumstances) it relied on the accuracy of the information Mr and Mrs B provided to the questions I would have expected Barclays to ask in order to identify the potential scam they were falling victim to.

On Balance, I am satisfied even if Barclays fraud detection systems had triggered the payment, I am not satisfied, an investment scam warning would have been provided. I say this because, Mr and Mrs B selected 'paying my other account'. And while Mr B was transferring money to another account in Mr B's name, the overall intended purpose for the transfer was for Mr B to invest. However, this option wasn't selected.

As such, even if Barclays had issued a better automated warning, the starting point would have been to establish what the payment was for. And taking into consideration the above along I think it's reasonable to conclude Mr B wouldn't have provided accurate information in response to that question. I say this because I am aware other financial institutions (which I will refer to as C and X) had previously asked that question when Mr B had tried to make similar transactions. And having reviewed the evidence, it is apparent Mr B didn't provide accurate answers to that question. So, on balance I am satisfied, he wouldn't have answered any differently in this case. Because of that, Barclays wouldn't have asked Mr B the questions linked to an investment scam (which is what he was falling victim to) and therefore, no automated warning would have resonated with him anyway. As such, it wouldn't be reasonable to conclude that Barclays acted unfairly or unreasonably in such circumstances.

Recovery

I have gone on to consider if Barclays took reasonable steps to try and recover the funds once it was made aware. However, Mrs and Mrs B didn't make the payments to the scammer directly, Mr B transferred funds to accounts in his own name. If these funds had not already been transferred to the scammer by Mr B, they would be in his control to access as and when he chose. Barclays would not have been able to attempt to retrieve the funds from the scammer directly as that is not where the funds were originally sent to. So, it follows that I won't be asking b to do anything further.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B and Mr B to accept or reject my decision before 21 July 2025.

Jade Rowe
Ombudsman