

The complaint

Mr P complains that Barclays Bank UK PLC won't reimburse the money he says he's lost to fraud.

What happened

In July 2021, Mr P paid almost £50,000 to forward purchase gold from a company I'll refer to as 'T'. He says that a broker advertised and sold the gold to him on T's behalf. Mr P was investing in T's gold mining operations with a return in gold (or cash) at the end of a 3-year contract term. Mr P hasn't received the expected delivery of gold and T has entered into insolvency. Mr P believes he has been defrauded.

Barclays has declined to reimburse Mr P under the provisions of the Lending Standards Board's Contingent Reimbursement Model ('CRM Code'). It says that T was a genuine company which has gone into liquidation. So, this matter is a civil dispute between Mr P and T, which isn't covered by the CRM Code.

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.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made a payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the firm to reimburse the customer even though they authorised the payment.

Barclays was a signatory of the CRM Code, and it was in force when Mr P paid T. 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. But customers are only covered by the CRM Code where they have been the victim of a scam, as defined in the CRM Code.

The relevant definition of a scam from the CRM code is that the customer transferred funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent.

The CRM Code also says that it doesn't apply to private civil disputes, such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier.

So, in order to determine whether Mr P has been the victim of a scam as defined in the CRM Code, I need to consider whether the purpose he intended for his payments to T was legitimate, whether the payment purposes Mr P and T intended were broadly aligned, and then, if they weren't, whether this was the result of a dishonest deception on the part of T.

From what I've seen and what Mr P has said, I'm satisfied he made the disputed payments with the intention of forward purchasing gold. I haven't seen anything to suggest that Mr P didn't believe the purchase was legitimate. But I'm not satisfied the evidence I've seen suggests that T intended a different purpose for the disputed payments, or that Mr P's and T's purposes for the disputed payments weren't broadly aligned. I say this because:

- T was formally incorporated in the UK in 2012, and there is evidence that supports legitimate mining and business operations, both in the UK and overseas. T's operations include the presence of tangible assets and infrastructure of sizeable value.
- No evidence has been provided by the appointed Insolvency Practitioners that would indicate an illegitimate or fraudulent business. Rather, the Company Voluntary Agreement ('CVA') and supporting documentation shows T was experiencing financial difficulties as a result of various factors. Yet, the CVA allowed T to continue trading whilst repaying creditors over several years.
- I understand that there is no further action being taken in relation to criminal investigations by law enforcement in both the UK and abroad. That said, one of the CVA reports indicates that legal action is being pursued by T in an overseas jurisdiction against an agency that heavily disrupted its operations. And this continues to speak to the financial difficulties T encountered. I wouldn't expect such actions to be taken by a firm that wasn't operating legitimately.
- I've seen reference to the possibility of a Ponzi scheme being operated here, but from the evidence our Service has seen, there is no indication of a Ponzi scheme or any links to one.
- Amongst other things, Mr P has referred to reckless and pressurised selling tactics; and T issuing fake profit statements and accepting money from investors whilst experiencing financial difficulties. I've carefully considered the arguments he's raised but I'm not persuaded they evidence anything other than poor business and financial management. That is not the same as the intention to operate a scam. And there's no evidence to support any false representations made, or intention to take Mr P's money knowing that contractual obligations couldn't be met at that stage.

It's clear to me that Mr P didn't receive what he paid for. It's also clear that T didn't meet its obligations to Mr P. But that alone is not sufficient to bring the matter under the scope of the CRM Code. I must be satisfied that the evidence shows a clear intent to defraud Mr P from the outset. And I must be satisfied that other viable explanations for T's failure to fulfil its obligations to Mr P can be ruled out. Forward purchases can fail for a number of reasons, and consumers not receiving their expected purchases at the end of a contract term doesn't necessarily indicate a scam.

Overall, I'm unable to fairly and reasonably conclude that T (nor the broker acting on its behalf) was – more likely than not – fraudulent, or dishonestly deceiving Mr P at the time it took his payments. Instead, the evidence strongly supports the conclusion that T was likely a legitimate business that fell into financial difficulty. I'm therefore not persuaded that it would be fair to direct Barclays to refund Mr P under the CRM Code – as I don't have compelling evidence of an APP scam.

I acknowledge Mr P's strength of feeling in this matter, and his concerns around some claimants receiving refunds directly from their banks, but not others. Whilst I can understand Mr P's frustrations, I can only deal with the case before me. And on the available evidence, although I understand that Mr P hasn't received what he paid for, I'm not satisfied there was

a clear intent to defraud him from the outset.

It's possible that new material evidence may become available at a future date, which suggests that T did dishonestly deceive Mr P when taking the disputed payments. If that happens, Mr P can ask Barclays to reconsider his claim and, if he's not satisfied with its response, he can bring a new complaint to our Service.

I've thought about whether Barclays ought reasonably to refund Mr P for any other reason, but I don't think it should. Considering the information that was available at the relevant time, I think it's unlikely that any intervention Barclays could've carried out would've uncovered a fraud risk and potentially prevented Mr P's loss.

I'm sorry to disappoint Mr P. I know he has lost a significant amount of money here. But I'm not persuaded that I can fairly ask Barclays to refund him based on the evidence that's currently available.

My final decision

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 9 April 2026.

Kyley Hanson
Ombudsman