

complaint

Mr F complains about the way that Barclays Bank UK PLC (“Barclays”) handled the recovery of his funds when he reported a scam.

background

I issued a provisional decision in August 2021 to explain why I thought Mr F’s complaint should not be upheld. And I said I’d consider anything else anyone wanted to give me. This is an extract from my provisional decision:

“Mr F says he has been the victim of a scam. In 2018, Mr F entered into an agreement with a builder to complete works on his driveway. Mr F made two transfers from his account on the 16 March and 3 April to pay for a deposit towards the building works and materials – the first for £600 and the second for £50. The builder started the works and removed the existing driveway but didn’t return to complete the work. Mr F was then unable to get in touch with him again.

Mr F contacted Barclays on 4 April 2018 who contacted the beneficiary bank on the same day. Unfortunately no funds remained in the recipient account. They declined to refund the money themselves as they felt that the payments weren’t unusual, but even if their systems had flagged the payments they don’t think intervention would have prevented Mr F making the payments as the builder had started work on the driveway. They suggested it was a civil dispute rather than a scam.

Mr F also contacted the police and action fraud about what happened, but unfortunately they have not continued to pursue the builder in relation to what happened.

Mr F remained unhappy, so he complained to our service. Our investigator reviewed what happened and recommended that his complaint not be upheld. They said this because they agreed that the payments weren’t so unusual or out of character that they should have prompted intervention from Barclays. They also said that Barclays acted correctly in relation to contacting the recipient bank in order to attempt to retrieve the funds. Mr F didn’t agree and asked for an ombudsman’s decision, so it has come to me to decide.

my provisional findings

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 am minded to reach the same outcome as our investigator, but for slightly different reasons.

Mr F doesn’t dispute authorising the payments in the first instance and Barclays had an obligation to follow his instructions in line with the mandate it held on the account. Having considered the circumstances of the payments, I’m persuaded Barclays acted correctly in executing Mr F’s payments to the builder as he initially instructed.

When Mr F contacted Barclays to tell them what had happened, they needed to consider good industry practice to determine what to do next. When the claim relates to a civil dispute rather than a scam, they don’t need to contact the receiving bank to recover the money. But I can see that in this instance, they did – presumably as they were treating it as a scam at that point. This would mean that if there was money remaining in the receiving account it could be frozen until the circumstances were clarified. I think Barclays acted fairly in doing this –

and although no funds remained in the receiving account, they did contact the receiving bank on the same day which I think was a reasonable timeframe.

Barclays said the payments didn't flag as unusual or out of character on their systems, so they didn't need to question Mr F about the payments. I think this is reasonable – there was nothing so unusual as to have flagged these payments as they were both for relatively low values and Mr F had made similar or larger genuine payments prior to these. Barclays also said that even if the payments had flagged, the circumstances of the complaint meant any intervention wouldn't have prevented the payments – and that it should be treated as a civil matter, rather than a scam. I think this is fair and reasonable in the circumstances. I say this because work on the driveway did start – with Mr F's old driveway being removed. The builder must have spent time starting the work – and did complete some work. The dispute only arose when he didn't finish the work and dropped out of contact with Mr F. Whilst this clearly wasn't professional conduct, it is not the usual actions of a fraudster. And I'm satisfied that the crux of this complaint is about the completion of work that had not been paid for in full. I note the police have also said they will not be investigating the matter further. I appreciate Mr F feels he has lost out here and I can understand why he is frustrated, but I don't think it would be fair for Barclays to cover his losses. As it currently stands, I'm satisfied this is a civil dispute between Mr F and the builder and Barclays is not liable to refund him.

my provisional decision

My provisional decision is that I do not uphold Mr F's complaint."

my findings

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 am not upholding this complaint.

Barclays accepted my provisional decision and didn't have any further points to add. Mr F expressed dissatisfaction with my provisional decision, but didn't have any further points or evidence to add.

Given that I have not received any further evidence to consider, I see no reason to deviate from my provisional decision. So, for the reasons I outlined in that provisional decision, I am not upholding Mr F's complaint.

my final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision by 10 October 2021.

Katherine Jones
ombudsman