

The complaint

Mr K complains that Barclays Bank UK PLC won't refund the money he lost when he was the victim of a scam.

What happened

In October 2022, Mr K received a phone call from someone claiming to be part of the fraud team at another bank he held accounts with. The caller told him someone was trying to clone his identity, so he needed to move all his money to a safe account and help them test the security systems at the bank. And as Mr K believed the caller was genuine, he followed their instructions to make a number of payments from his accounts to account details the caller gave him – including a payment of £9,990 from his Barclays account.

Unfortunately, we now know the caller was a scammer. The scam was uncovered when the caller didn't call Mr K back when they said they would, and Mr K realised something was wrong. Mr K then reported the payment he had made to Barclays and asked it to refund the money he had lost.

Barclays investigated and said it could have done more to advise Mr K about the risk of scams. But it also thought he didn't take reasonable steps to check the payment was genuine. So it offered to refund 50% of the money Mr K had lost. It was also able to recover £9 from the bank the money was sent to. Mr K wasn't satisfied with Barclays' response, so referred a complaint to our service.

One of our investigators looked at the complaint. They thought Barclays should have intervened before allowing the payment to go through. But they also thought Mr K should have had some concerns about what was going on. So they thought a refund of 50% of the money Mr K lost was fair. They also recommended Barclays pay Mr K £100 as compensation for the poor customer service it provided when he reported the scam. Barclays agreed with our investigator, but Mr K disagreed so the complaint has been passed to me.

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

Barclays is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This code requires firms to reimburse customers who have been the victim of authorised push payment scams, like the one Mr K fell victim to, in all but a limited number

of circumstances. And it is for the firm to establish that one of those exceptions to reimbursement applies.

Under the CRM code, a firm may choose not to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made
- The customer made the payment without a reasonable basis for believing that:
 - o the payee was the person the customer was expecting to pay;
 - o the payment was for genuine goods or services; and/or
 - o the person or business with whom they transacted was legitimate

There are further exceptions within the CRM code, but these don't apply here.

Did Mr K have a reasonable basis for belief when making the payment?

Barclays has argued Mr K didn't have a reasonable basis for belief when making this payment, because he didn't do enough to protect himself before making it. And while I appreciate he has been the victim of a cruel and sophisticated scam, I do think there were a number of things about what was happening and what he was told that should have caused him significant concern.

Mr K said the caller phoned him from a withheld number, which isn't how I would expect a legitimate organisation to contact someone. And while the caller appears to have known some information about the accounts he held and the money held in them, he's said they didn't go through any identity verification or security procedure with him at the start of the call. And I think it's reasonable to expect a legitimate organisation to do this, particularly when calling to discuss such sensitive and serious circumstances. So I think the way Mr K was contacted and introduced to the caller should have caused him some concern.

The caller also told Mr K they were calling from another bank he held accounts with, but then appears to have told him they had either access to or information about his account with Barclays – in order to persuade him to move money from that account as well. And one bank wouldn't be able to see information about an account held at another bank, and wouldn't contact a customer about an account held at another bank. So I think the caller asking him to move money from his Barclays account, despite saying they worked for another bank, should have caused Mr K significant concern.

The bank details Mr K was asked to send the money to were with a different bank to either Barclays or the bank the caller said they worked for. The bank details were in the name of an individual, rather than a bank involved in the investigation Mr K was told he was helping with. And Mr K doesn't appear to have been given any explanation about who the individual was. So I think being asked to make the payment to this bank and this person should have caused Mr K significant concern.

Mr K was also told to mislead Barclays when it asked about the reason for him making the payment, and to say it was for a contractor working for him. And I think being asked to lie to his bank should also have caused him significant concern.

I sympathise with the position Mr K has found himself in. And I appreciate that the caller did have some information about him and his accounts, kept him on the phone for a significant period of time and pressured him to do what they were asking. But I think there were a number of things here which should have caused him significant concern. And I don't think the seemingly genuine information he was given should have been enough to overcome the concerns I think he should have had.

So I think Barclays has established that Mr K made the payment without a reasonable basis for belief that it was genuine. Barclays has therefore established that one of the exceptions to reimbursement under the CRM code applies here, and it does not have to refund Mr K all the money he lost.

Did Barclays meet its obligations under the CRM code?

Even though I don't think he had a reasonable basis for belief when making the payment, Mr K may still be entitled to a refund of some of the money he lost if Barclays didn't meet its obligations under the CRM code – one of which is to provide effective warnings when it identifies a scam risk.

Barclays has accepted that it should have identified a risk here and didn't do enough before allowing this payment to go through. So it has accepted that it didn't meet its obligations under the CRM code.

Where one of the exceptions to reimbursement applies, but a firm also didn't meet its obligations, the CRM code sets out that the customer is then entitled to a refund of 50% of the money they lost.

As Barclays has already offered to refund 50% of the money Mr K lost as a result of this scam, I think this is a fair and reasonable outcome to this complaint and I don't think it would be fair to require it to refund anything further.

Mr K has raised that the other bank he lost money from has refunded him in full, and questioned why the outcome of this complaint is different. But we look at each complaint individually on its own merits and I can't comment on the outcome of another set of circumstances. I don't think another bank refunding Mr K in full means that Barclays should have to refund him as well. And having reviewed this complaint, I'm satisfied Barclays' offer to refund 50% of the money Mr K lost is fair.

Did Barclays do enough to recover the money Mr K lost?

We expect banks to take reasonable steps to try to recover the money their customers have lost, once they are made aware of a scam.

Barclays' evidence shows it contacted the bank the payment was sent to within a reasonable amount of time, to ask for the money to be returned. So while unfortunately the bank the money was sent to was only able to recover £9, Barclays has done all I would expect it to have done.

Customer Service

Mr K also complained that Barclays didn't provide a good level of customer service when he called to report the scam.

I've listened to recordings of the calls Mr K had with Barclays when reporting the scam and then during its investigation. And while some of the calls were handled well, I do think there were times when Barclays could have shown more understanding and been more empathetic towards Mr K. And I think this lack of care will have caused him some distress.

From the evidence I've seen, I think Barclays should therefore pay Mr K £100 as compensation or the distress this poor customer service caused to him.

My final decision

For the reasons set out above, I uphold this complaint in part and require Barclays Bank UK PLC to:

- Refund Mr K 50% of the money he lost as a result of this scam, plus the £9 recovered from the bank the money was sent to, if it has not already done so – totalling £5,004.
- Pay 8% simple interest on this refund, from the date it initially responded to his claim until the date of settlement
- Pay Mr K £100 compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 5 April 2024.

Alan Millward
Ombudsman