

## **The complaint**

Mrs L complains about Barclays Bank UK PLC.

She says that Barclays didn't do enough to protect her when she became the victim of a scam and would like Barclays to refund her the money she has lost.

## **What happened**

Mrs L saw an advert for cryptocurrency supposedly endorsed by three well known TV personalities. Her and her husband had had a hard time with their business due to the Covid-19 pandemic and she was looking for a way to build up what money they had.

She entered her details online and was contacted by an individual offering an investment opportunity in crypto.

Mrs L was persuaded by the individual to make several payments to purchase cryptocurrency – however she later realised that she had been scammed and reported this to Barclays and made a complaint.

About a month later, Mrs L was contacted by the scammers again – this time they told her that they were a specialist recovery company and knew she had been the victim of a scam, and offered to get her money back for her. Mrs L then made two further payments for this part of the scam.

Barclays upheld Mrs L's complaint in part as it recognised it could have done more. It offered to refund Mrs L 50% of the money she had lost in the initial part of the scam, but not the money she had lost to the recovery scam.

Unhappy, Mrs L brought her complaint to this Service. Our Investigator looked into the complaint and thought that it should be upheld in part.

Barclays disagreed, so the complaint has been passed to me to make a final 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've decided to uphold this complaint in part, for broadly the same reasons as our Investigator. I'll explain why.

It has already been established that Mrs L was the victim of a scam and that she authorised the payments in question. So, in line with the Payment Services Regulations 2017 (PSRs), Mrs L is presumed liable for the loss in the first instance, even though she was tricked by the scammers into instructing Barclays to make the payments.

Mrs L made the following payments. The last two payments are the payments made to the

recovery part of the scam.

Date	Payee	Payment type	Amount
17 September 2020	CB	Transfer	£400
17 September 2020	CB	Transfer	£1,500
18 September 2020	CB	Transfer	£10,000
21 September 2020	RB	International TF	£9,429.51
22 September 2020	CB	Transfer	£2,000
22 September 2020	CB	Transfer	£20,000
22 September 2020	CB	Transfer	£1,000
22 September 2020	CB	Transfer	£10,000
23 September 2020	CB	Transfer	£13,000
25 September 2020	CB	Transfer	£2
25 September 2020	CB	Transfer	£20,000
26 October 2020	SP	Debit card	£1,700
26 October 2020	SP	Debit card	£900
		Total loss	£89,931.51

*Should Barclays have reasonably prevented the payments in the first place?*

I can only uphold this complaint if I think that Barclays reasonably ought to have prevented some or all the payments Mrs L made in the first place – therefore preventing the loss before it happened.

Mrs L authorised the scam payments in question here – so as I've explained above, she is presumed liable for the loss in the first instance.

That said, as a matter of good industry practice, Barclays should have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction.

Taking into account the law, regulatory rules and guidance, relevant codes of practice and what I consider having been good industry practice at the time, I consider Barclays should fairly and reasonably:

- Been monitoring accounts – including payments made and received – to counter various risks including anti-money laundering, countering the financing of terrorism and preventing fraud and scams;
- Have had systems in place to look out for unusual transactions or other signs that might indicate its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer; and
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

This leads me to consider the payments that Mrs L made.

The first two payments Mrs L made were of relatively low value, and I'm not persuaded that Barclays should have become involved at this point. I say this because as I've explained above, there is a balance to be struck and I don't think that they are sufficiently unusual or uncharacteristic to have triggered Barclays into taking extra steps before processing Mrs L's payment instructions.

However, by the time the third payment was made for £10,000 – I think that Barclays should have become involved.

This payment should've stuck out to Barclays as being uncommon considering the way in which Mr and Mrs M generally used their account, especially given that by January 2019, Santander should already have had a good understanding about how scams like the one Mr M fell victim to work.

With this in mind, Barclays should reasonably have contacted Mrs L to establish whether the transaction posed any possibility of placing him in financial harm before processing it. I would've expected it to have questioned Mrs L about the payment – including what she was making the payment for and surrounding context and to proceed accordingly. The intention being to disrupt or uncover a potential fraud or scam.

I understand that Barclays has already said that some of the payments were released by batch process before it had a chance to speak to Mrs L, which is why it has already made an offer to repay some of the money that has been lost.

I also know that Barclays *did* speak with Mrs L on several occasions regarding some of the payments she was making too, and Barclays has provided these calls to me. Having listened to the calls, I don't think that Barclays did enough on any of the calls provided that would lead me to find that it provided an effective and meaningful warning to Mrs L about the payments she was making.

While some of the calls that took place did mention scams, none of them provided enough detail, or probed Mrs L about the payments in a way I would expect, especially when it was clear that the payments were going to crypto. A warning was given in one of the calls about scams involving HMRC and bank staff – but this wasn't relevant to the kind of scam that Mrs L had fallen victim to.

So, I think that Barclays missed opportunities to prevent the payments from payment three onwards.

*Payments made for the recovery part of the scam*

I understand that Barclays does not feel that it should refund Mrs L the payments she made as this part of the scam. It says that as Mrs L reported that she had been scammed before these payments were made that she should have been aware that this was also part of the scam. But I disagree.

As Barclays should be aware, once a consumer has shown themselves to be susceptible to a scam but become aware of what was happened and stopped payments, they are often contacted again by the same scammer under the pretence of recovering money for a consumer. These scams can be very convincing as the scammer already has a lot of detail about what has previously gone on.

Mrs L has explained that she was devastated to have lost so much money, and so was anxious to try and recoup her loss. So, I can understand why she was further persuaded to part with more money.

Barclays already knew by this time that Mrs L had shown herself to be vulnerable to scams – and the payments were again being made to crypto – so it could have picked up on these payments but didn't. It wasn't until after these payments had been made that it told Mrs L that this was also likely to be a scam during one of the calls it has provided to me. And, if Barclays had intervened appropriately from the third payment as set out above, these payments would never have happened. So, I think that Barclays should also refund these payments too.

*Should Mrs L bear some responsibility for the loss?*

While I do consider that Barclays should have prevented the payments from payment three, I do need to consider if Mrs L should bear some responsibility for what happened here by way of contributory negligence.

Barclays says that Mrs L should bear responsibility as the rate of return promised by the scammer was too good to be true, and that she should have done more checks before parting with such a significant sum of money.

However, I am not persuaded that Mrs L should bear responsibility here. Mrs L was not a sophisticated investor – and was not technologically savvy either. While there were some reviews online that were negative, there were also positive reviews about the 'company' Mrs L was dealing with too. Barclays was the expert here, not Mrs L. So, I consider that it should have had more knowledge on the intricacies of these types of scams.

It follows that I am satisfied no deduction for contributory negligence should be made from payment three onwards.

### **Putting things right**

Barclays Bank UK PLC should refund Mrs L the total of all payments made from payment three onwards.

I calculate this figure to be £88,031.51.

Barclays Bank UK PLC can deduct the amount it has already paid Mrs L from this figure.

Barclays Bank UK PLC should also pay Mrs L 8% simple interest on this amount from the date of each payment until settlement (less any lawfully deductible tax).

**My final decision**

I uphold this complaint in part. Barclays Bank UK PLC should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 13 July 2023.

Claire Pugh  
**Ombudsman**