

The complaint

Mr F complains that Barclays Bank UK PLC ("Barclays") won't refund in full money he lost when he fell victim to an investment scam.

Mr F is being represented by solicitors in his complaint.

What happened

The full details of this complaint are well known to both parties. The facts about what happened aren't in dispute. As such, I'll only provide an overview and focus on giving my reasons for my decision.

Between September and November 2020, Mr F sent just over £65,000 in a series of payments to what he thought was an investment opportunity. He eventually realised he'd been scammed.

Transaction	Date	Amount
Payment 1	9 September	£3,000
Payment 2	24 September	£8,200
Payment 3	15 October	£14,000
Payment 4	26 October	£15,000
Payment 5	18 November	£25,000
	Total amount	£65,200

Barclays declined to refund Mr F's losses initially but offered a partial refund after he complained. Barclays didn't think the first two payments were out of character for the account activity, but it accepted it could have prevented Mr F's losses from payment three onwards. It therefore refunded payments three to five along with interest, making a deduction for the two credits totalling £2,611.43 that Mr F received directly from the scammer.

The complaint was referred to our service and one of our investigators concluded that the refund Barclays had already paid was fair. Mr F didn't agree, so his case came to me for a decision. I wrote to Barclays informally and explained that I intended telling it to refund the second payment as well as I considered it ought to have flagged as unusual based on previous spending activity on the account. I also thought that the interest which Barclays had added to the transactions it had already refunded ought to be calculated from the date of the transaction, not from the date it originally declined Mr F's claim.

Separately, I provided an update to Mr F's representative on how I intended proceeding with this complaint. They acknowledged the update and said Mr F agreed my findings were fair.

Barclays disagreed that payment two was out of character and said Mr F had made a payment for a higher amount in the months prior to the disputed transaction. And so, it didn't think payment two was that unusual. With regards to the interest calculation, Barclays said it understood my findings. I wrote back and explained that the payment for a higher amount

which had been highlighted wasn't made from the account that the scam payments were made from. So, I didn't think it was relevant here. I haven't heard back from Barclays, so it's appropriate for me to issue a 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.

Barclays has already acknowledged that had it sufficiently probed Mr F when he authorised payment three, the scam would have been uncovered and further losses prevented. But I think it should have intervened even earlier. Looking at the account statements, it seems that majority of the large-value transactions the investigator took into consideration for determining usual account activity were transfers between Mr F's own accounts. For the purposes of account monitoring for fraudulent or suspicious activity, I wouldn't consider first-party transfers in the same way as payments made to a third party.

Discounting inter-account transfers, the only other large-value payment within the 12-month period leading up to the disputed transactions was a payment for £30,000 to a firm "C" 19 August 2020. I don't consider a one-off transaction on its own to sufficiently represent a pattern of account spending behaviour. Besides, from the information I've seen, that payment was made in connection with another, unrelated, scam that Mr F fell victim to. And Barclays reimbursed his loss (minus the amount that was recovered from the beneficiary bank).

After reviewing the account activity, I find that the payment for £8,200 on 24 September 2020 in connection to the scam being considered in this complaint was out of character and ought to have flagged to Barclays as unusual. So much so, that I think it should have paused it pending further enquiries. I appreciate the bank believes that payment isn't unusual given Mr F made a payment of £14,000 from another account only a few months earlier. But as explained in my previous correspondence with Barclays, when deciding whether a disputed transaction was unusual or out of character, our service looks at activity on the account the transaction was made from. This is in keeping with the BSI code which makes reference to *the* account when giving examples of what constitutes as suspicious activity.

Barclays already acknowledges that a suitable intervention during payment three would have uncovered the scam. I think a suitable intervention just a payment earlier would have had the same result. And I'm persuaded that Mr F would have stopped in his tracks. So, I think Barclays can be held liable for payment two as well.

I don't think a deduction for contributory negligence is warranted for this additional payment. At the time, Mr F didn't know the payment he made to C was a scam. So, I wouldn't have expected him to have been more vigilant due to being a recent victim of scam. That means, a fair outcome in this case would be for Barclays to refund the second payment in full, along with interest.

Regarding interest, I note that Barclays has calculated it from the date it declined to provide a refund to the date of settlement. As Barclays acknowledges, the payments aren't covered under the CRM Code. So, it's unclear why it has deviated from the usual approach of calculating interest from the date of transaction to the date of settlement. Barclays has since said it understands my finding in relation to this matter, so I don't need to comment any further on it.

Putting things right

Barclays has already refunded payments three to five, making a deduction for the two credits that Mr F received directly from the scammer. It now needs to refund payment two as well.

Barclays has already paid 8% simple interest per year on the payments it has refunded, calculated from the date it declined Mr F's claim to the date it paid the settlement. As explained, I think a fairer outcome here is for it to calculate interest from the date of transaction of each refunded payment to the date of settlement.

That means, Barclays Bank UK PLC needs to:

- (A) refund the second payment,
- (B) pay simple interest at 8% per year on that amount (A), calculated from the date of transaction to the date of settlement,
- (C) for payments three to five, pay the difference between the amounts due had interest been calculated from the date of each transaction – rather than the date of the claim being declined – to the date when the payment was originally made,
- (D) pay 8% simple interest on that amount (C), calculated from the date the refund was originally paid to the date of settlement. This is to compensate Mr F for not having access to this additional amount during that period.

My final decision

For the reasons given, my final decision is that I uphold this complaint. Barclays Bank UK PLC needs to put things right for Mr F as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 7 August 2023.

Gagandeep Singh
Ombudsman