

The complaint

Mr M complains about Barclays Bank UK PLC.

He says that Barclays didn't do enough to protect him when he became the victim of a scam and would like Barclays to refund him all of the money he has lost.

What happened

In September 2020, Mr M was speaking with his wife's friend about her investments. She told him she was pleased with how things were going. Mr M was aware that trading in cryptocurrency was becoming popular and asked to be put in touch with the company his wife's friend was dealing with.

Once contact had been made, Mr M was impressed with the information he was given – the company seemed professional and asked for a lot of identification documents from Mr M which persuaded him of its legitimacy.

He was persuaded to invest £9,040 which he paid over eight payments to purchase crypto.

Unfortunately, Mr M had been dealing with a scammer.

Once Mr M realised he had been the victim of a scam, he reported this to Barclays and complained that it hadn't done enough to protect him from losing his money.

Barclays upheld Mr M's complaint in part. It said that it recognised that there may have been some errors on its part but that Mr M should also bear some responsibility for the loss – and so refunded Mr M 50% of the money he had lost, plus interest, and a further £200 to recognise the distress Mr M had been caused.

Mr M was not happy with the offer, so he brought his complaint to this Service.

Our Investigator considered the complaint, but thought that what Barclays had offered was generous, and didn't recommend that it needed to do any more than it had already done.

Mr M asked for an Ombudsman to review his complaint, 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 agree with our investigator, Barclays has already made a reasonable offer to Mr M, given the circumstances of Mr M's complaint. I know that this will be disappointing for Mr M, so I'll explain why.

Was Mr M the victim of a scam?

It's not in dispute here that Mr M has been the victim of a scam – he was persuaded to invest money and was initially in contact with the scammer on a regular basis – but then this stopped and Mr M was not able to make further contact or access his money.

Did Mr M authorise the payments?

In line with the Payment Services Regulations 2017 (PSRs), Mr M isn't liable for payments he didn't authorise, unless he failed with gross negligence or intent to comply with the terms of the account or keep his personalised security details safe.

Mr M says that he made the payments – so I'm satisfied that he did authorise them – even though he had been tricked by the scammer into making the payments. But while Mr M never intended the payments to go to the scammers, this doesn't change the fact that he authorised them and is therefore presumed liable for the loss in the first instance.

Recovery of the payments Mr M made

After the payments were made, I wouldn't reasonably expect Barclays to do anything further until it had been notified there was a scam. Mr M made eight payments in total by debit card and online transfer.

The only recourse for potential recovery of the funds for the payments made by debit card would be via the chargeback scheme. Chargeback is a process by which disputes are resolved between card issuers (here, Barclays) and the merchant (here, W).

However, a chargeback in these circumstances would likely never have been successful. This is because W is a legitimate crypto exchange and provided the services that Mr M had requested of it – the purchase of crypto. The subsequent transfer of the crypto to a different wallet is therefore a separate matter – and so a successful chargeback would never have been possible – and so I don't think that these payments were recoverable once they had been made.

Similarly, for the payments made by online transfer, again the service was provided so I don't think that Barclays would have been able to ask for the funds to be returned from the receiving bank.

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 the payments when Mr M was attempting to make them – therefore preventing the loss before it happened.

Mr M authorised the scam payments in question here – so as I've explained above, he 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.

So, I've carefully considered what this means for Mr M and the payments in question here.

I understand that Mr M and his representative think that Barclays should have intervened on 14 January 2021 when Mr M made two payments to the scammer totalling £3,000. But I'm afraid I disagree.

Having considered Mr M's account activity, I don't think that Barclays could reasonably have been expected to prevent any of the payments that Mr M lost to the scam. None of the payments that were made as a result of the scam were sufficiently unusual, uncharacteristic or suspicious enough to reasonably say that Barclays shouldn't have allowed the payments to go through without first getting in touch with Mr M. While some of the payments were larger than Mr M's usual spend, he did make larger transactions from time to time, and most of the payments were spread out over the course of a month. And I don't think that there was anything that ought to have stood out about the transactions and triggered Barclays to step in. While I understand that the payments were being made to purchase crypto – not all such payments are a result of a scam.

So, I can't say that Barclays should've been obliged to have gotten in touch with Mr M about the payments – and I'm satisfied that it didn't miss an opportunity to prevent the payments from being made.

I understand that Barclays has already paid Mr M 50% of the payments, with interest and a further £200 compensation – and I think that this is generous in the circumstances. And so, I don't recommend it do any more than it already has.

My final decision

I don't uphold this complaint. For the reasons set out above, I am not asking Barclays to do any more than it already has.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 25 August 2023.

Claire Pugh
Ombudsman