

## The complaint

Mr A is unhappy Barclays Bank UK Plc will not refund the money he lost as the result of an authorised push payment (APP) scam.

## What happened

As both parties are familiar with the details of the scam, I will not repeat them here in full. In summary, Mr A transferred over £180,000 in multiple faster payments to an account he held at a cryptocurrency exchange as set out below.

payment	date	value, £
1	06/04/2022	500
2	06/04/2022	500
3	25/04/2022	400
4	26/04/2022	400
5	29/04/2022	1,000
6	03/05/2022	1,000
7	06/05/2022	800
8	10/05/2022	800
9	11/05/2022	500
10	12/05/2022	1,500
11	16/05/2022	500
12	18/05/2022	1,200
13	19/05/2022	1,200
14	20/05/2022	600
15	20/05/2022	600
16	23/05/2022	600
17	25/05/2022	400
18	01/06/2022	100
19	01/06/2022	1,020
20	06/06/2022	

payment	date	value, £
25	04/08/2022	8,000
26	05/08/2022	8,000
27	08/08/2022	8,000
28	09/08/2022	8,000
29	11/08/2022	8,000
30	12/08/2022	8,000
31	15/08/2022	8,000
32	16/08/2022	8,000
33	17/08/2022	8,000
34	18/08/2022	8,000
35	19/08/2022	8,000
36	22/08/2022	8,000
37	23/08/2022	8,000
38	24/08/2022	8,000
39	25/08/2022	8,000
40	26/08/2022	1,000
41	26/08/2022	8,000
42	04/10/2022	2,200
43	25/10/2022	3,200
44	02/11/2022	

		1,005			1,020
21	06/06/2022	2,000	45	04/11/2022	2,050
22	01/08/2022	8,000	46	10/11/2022	1,000
23	02/08/2022	8,000	47	21/11/2022	1,200
24	03/08/2022	8,000	total		180,295

From there he invested using a trading company (M) that he believed he had been introduced to by a well-known social media personality. When he later tried to withdraw his funds, but was told he would need to first pay taxes upfront, Mr A realised he had been scammed and contacted Barclays.

Mr A says Barclays ought to have protected him from this fraud. He was vulnerable at the time following a bereavement and a knee injury that left him housebound.

Barclays initially rejected Mr A's claim for a refund saying the transactions were not covered by the Contingent Reimbursement Model (CRM) as the payments were made to an account in Mr A's own name. It subsequently refunded £81,835 which was 50% of all payments from 1 August 2022, plus interest of £3,329. It accepted it should have done more from that date as the payments increased in value and frequency. But it thought that Mr A must share responsibility for those losses as he did little to check the legitimacy of the investment opportunity.

Unhappy with that refund Mr A brought his complaint to this service.

Our investigator found Barclays' response to be fair and reasonable. He agreed that 1 August 2022 was the point at which Barclays should have intervened. However, he wasn't persuaded its intervention would have stopped Mr A from making the payments based on how Mr A responded to verification calls it later made. But, accepting Barclays had already taken responsibility in part, he felt it was fair for it to refund only 50% of the value as Mr A had done things, and omitted to do things, that had undoubtedly contributed to him falling victim to the scam. So he was asking Barclays to take no further action.

Mr A disagreed with this assessment and asked for an ombudsman's review. He said the bank should have done more to protect him. It should have asked him to come into a branch to see an anti-fraud banker, instead they were complacent. The transactions were out of character for him. When he reported the scam he felt the bank ought to have supported him to maintain contact with the scammer, and so track him down and bring him to justice. In addition, his lack of contact with the outside world prevented him from identifying the reality of the situation he was in - the bank should have asked if he was vulnerable.

### **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.

There's no dispute that Mr A made and authorised the payments. Mr A knew who he was paying, and the reason why. At the stage he was making these payments, he believed he was transferring funds to his account at a cryptocurrency exchange to then invest via company M. I don't dispute Mr A was scammed and he wasn't making payments for the reason he thought he was, but I remain satisfied the transactions were authorised under the Payment Services Regulations 2017.

It's also accepted that Barclays has an obligation to follow Mr A's instructions. So in the first instance Mr A is presumed liable for his losses. But there are other factors that must be considered.

To reach my decision I have taken into account the law, regulator's rules and guidance, relevant codes of practice and what was good industry practice at the time. To note, as the payments were to accounts in Mr A's name the principles of the Contingent Reimbursement Model (CRM) code do not apply in this case.

This means I think that Barclays should have:

- been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- had systems in place to look out for unusual transactions or other signs that might indicate that 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 financial institutions are generally more familiar with than the average customer.
- in some circumstances, irrespective of the payment channel used, taken additional steps or made additional checks before processing a payment, or in some cases declined to make a payment altogether, to help protect its customers from the possibility of financial harm.

In this case, I need to consider whether Barclays acted fairly and reasonably in its dealings with Mr A when he made the transfers, or whether it could and should have done more before processing them. And specifically for this investigation, given the refund that Barclays has already made, I need to decide if that considers all the payments it should - and is it fair that Mr A shares the liability.

I agree that payment 22 was the point at which Barclays ought to have intervened. I say this as payments 1 to 21 were not out of character for Mr A's account. They were to an existing payee, not high value for the account, not made in quick succession, and nor did any of them drain the account. But when the payment value increased substantially to £8,000 on 1 August 2022 I think Barclays ought to have intervened. This would not have to have been a branch meeting as Mr A suggests, direct contact on the phone could suffice.

Typically, this finding would mean I need to decide whether or not an effective intervention by the bank would have prevented the accountholder from suffering financial harm. But here Barclays has already concluded it would have done and so it refunded 50% of the losses from that point.

Therefore, I will focus on assessing whether that split of liability is fair. I've considered carefully whether Mr A should hold some responsibility for his loss by way of contributory negligence. I think he should, there are a few reasons for this:

- Mr A carried out minimal checks on the investment opportunity – he said he checked for online reviews but could not find any, however there are comments online that pre-date his payments suggesting company M may be a scam. He seems to have been willing to invest significant sums without an appropriate level of due diligence.
- Mr A was willing to conceal facts from Barclays when it did call him about later payments. He said there was no third-party involved and that he had been researching this type of investment over a long period of time and had found company M through his own research.

- The scammer referenced a possible rate and speed of returns that was implausibly high and communications were via WhatsApp: these issues ought to have been red flags for Mr A.

So I think it is fair that Barclays refunded only 50% of the losses, with interest as we would award, from payment 22 onwards.

I have then looked at whether Barclays did what we would expect to try to recover the money when Mr A reported the scam. This was on 29 November 2022 so some time after it started and Mr A knew he had moved the money on from the beneficiary account Barclays had sent it to. I would therefore not reasonably expect Barclays to have successfully recovered the money, though I can see it returned the money that was remaining (£166.24) to Mr A.

Mr A is unhappy that Barclays didn't do more to track down the scammer when it had the opportunity to do so. But I would not see that as the role of the bank, rather a criminal matter that the police needed to lead, with the bank's co-operation as required. I have seen no evidence Barclays failed to co-operate with any investigation into this scam. Finally, Mr A explained to this service why he was vulnerable to the time of the scam and says the bank did not take this into account. But I have seen no evidence that the bank was on notice of Mr A's vulnerabilities at the time, nor of how they were impacting his money management, so this does not change my conclusion.

In the round, this means I am not instructing Barclays to refund any more money to Mr A. This is a difficult decision to make, I'm sorry Mr A lost a considerable amount of money which was very distressing for him. I can understand why he would like to be compensated for all his losses. And I do accept Mr A has fallen victim to a sophisticated scam. But I can only consider whether the bank, which had no involvement in the scam itself, should be held responsible, beyond the extent it has already accepted, for what happened.

And for the reasons set out above I find the refund Barclays has already paid Mr A to be a fair settlement.

### **My final decision**

I am not upholding Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 3 January 2024.

Rebecca Connelley  
**Ombudsman**