

The complaint

Mr S complains that Barclays Bank UK PLC (Barclays) won't refund the money he lost when he fell victim to a scam.

What happened

In March 2022, Mr S was contacted on social media by someone who posted about cryptocurrency trading. He was already trading, and says he was looking out for investment opportunities. He began corresponding with the individual, who persuaded him to invest on a trading platform – 'U'. Unfortunately, it appears this was a fraudulent platform.

Mr S made a number of payments to U via a cryptocurrency wallet he held. It seems he was initially able to make a (fairly substantial) withdrawal from the platform. But he says he realised it was a scam when he asked to make another withdrawal and was told he would need to pay for a tax certificate. When he logged on to U a few days later, he saw his trading account balance – previously showing substantial profits – was £0.00

When Mr S reported the issue to Barclays, he initially told it he hadn't authorised the payments. He later admitted he did, due to being tricked by the scam. He complained to Barclays that it hadn't done enough to protect him. When it wouldn't refund him, he referred his complaint to our service.

Our investigator didn't uphold the complaint. They noted Barclays had called Mr S to discuss the first scam payment. And he had maintained no other party was involved, and that he was acting alone. Based on the responses given, the investigator wasn't persuaded Barclays missed an opportunity to uncover the scam.

Mr S has appealed the investigator's view. He says the highest scam payment (for around £10,000) should have flagged as suspicious. And that he hadn't been given a cover story of what to tell the bank if any payments were flagged. So Barclays should have uncovered the scam, and prevented further losses, at this point.

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 not to uphold it. I'll explain why.

It's now agreed that Mr S authorised the scam payments. In line with the Payment Services Regulations 2017, banks are expected to execute authorised payment instructions without undue delay. So the starting position is that Mr S, rather than Barclays, is liable for these payments.

However, there are circumstances when it might be appropriate for Barclays to take additional steps before processing a payment – in response to identifying a fraud risk. That might be appropriate when a payment is significantly unusual or uncharacteristic compared to the normal use of the account.

I'm conscious that, prior to this scam, Mr S had been using his Barclays account to make cryptocurrency payments. That included payments of a similar size to the first couple of scam payments. The cryptocurrency wallet he sent the scam payments to was also an established payee on his account.

Despite that, Barclays did in fact flag the first scam payment as suspicious – and spoke to Mr S about it. During the call, Barclays picked up that he had been paying the wallet for a few months, which he confirmed was correct. It asked if he was managing the funds himself, or whether anyone was helping. It later asked again whether there was any third-party involvement. At both points, Mr S maintained he was acting alone.

I don't think Mr S answered Barclays honestly. Based on what he has told us, and the records he has provided of his contact with the scammer, he wasn't acting alone; he was acting on third-party advice. Barclays wasn't told that, despite asking several times. And the fact he had been making cryptocurrency payments to various merchants for several months will have made his explanation seem more plausible.

Mr S says he wasn't coached by the scammer on what to say. Regardless of his reasons for denying third-party involvement, his responses made it less obvious to Barclays that he was at risk. Overall, I don't think Barclays had cause to suspect Mr S was falling victim to a scam. Based on the responses he gave, I think it was reasonable to process the payment in line with his authorised instructions.

Mr S thinks the third scam payment, for around £10,000, ought to have been flagged as suspicious. But it was going to an established payee who had been paid over a period of months. And Barclays had spoken to Mr S about a payment to that recipient just a few weeks prior. So I can see why it didn't view the payment as suspicious.

However, it was also significantly more than any prior payments Mr S had made, either to cryptocurrency merchants or otherwise. So I do think there is a case for arguing that Barclays should have intervened again. But even if it had done so, I'm not persuaded it would have succeeded in uncovering the scam. As he hadn't disclosed the role of the third party earlier, I can't see why he would have done at this point either.

As the investigator has pointed out, Mr S had also withdrawn a significant amount from the scam platform by this point – which would likely have reinforced his belief it was legitimate. I think that would have made it harder for Barclays to have dissuaded him from proceeding.

I also agree with the investigator that Barclays didn't miss an opportunity to recover the loss. The merchant paid provided the expected service by loading the funds to his wallet in line with his authorised requests. It later sent them on in line with his instructions (otherwise, the fraudulent loss would not have been incurred). So I can't see how Barclays could have successfully charged back the card payments or recalled the faster payments.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 18 December 2023.

Rachel Loughlin
Ombudsman