

The complaint

Mr H complains that Barclays Bank UK PLC ("Barclays") have failed to refund over £700,000 he lost to an investment scam beginning in January 2021.

The details of this complaint are well known to both parties, so I won't repeat everything again here. Instead, I will focus on giving the reasons for my 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 the conclusions reached by the investigator and have decided not to uphold it for the reasons set out below.

It isn't in dispute that Mr H authorised the disputed payments he made to his account with Clearbank or to the crypto wallets in his own name (where his funds were subsequently transferred on to the scammers ("NC")). The payments were requested by him using his legitimate security credentials provided by Barclays, and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.

However, I've considered whether Barclays should have done more to prevent Mr H from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character.

It isn't in dispute that some of the payments Mr H made were unusual given that they did trigger the bank's fraud prevention systems and were automatically blocked pending further enquiry – such as the £8,000 payment he made on 7 January 2021. Accordingly, it's just a question of whether the bank went far enough in all the circumstances with its interventions.

When Barclays spoke to Mr H on 7 January 2021, he explained that the payment had been flagged as being potentially fraudulent. Prior to this, Barclays had told him to speak to the FCA to check whether NC was legitimate. He said that the person at the FCA he spoke to said they couldn't find NC or see that it was authorised and told him it had all the hallmarks of a scam. So, he reported it as fraud to Barclays as he was concerned he was going to lose the £8,000 he had paid.

However, despite initially having such concerns, Mr H continued to make payments to the scammers through his accounts/crypto wallets. Barclays called him again on 14 January 2021 in relation to the £15,000 payment he was making to Bitstamp, where he said he had fully researched the company, was paying into his own wallet and was happy for the payment to be released. Mr H says he continued to make payments because he had spoken to the scammers after reporting the first payment as fraud, who were subsequently able to convince him that they were legitimate. They also refunded the previous £8,000 payment he had made to further convince him it wasn't a scam.

So, even if I thought Barclays ought to have gone further with its intervention and asked more probing questions when it spoke to Mr H, I'm not persuaded that any such intervention would have ultimately prevented his loss. The fact that he continued making payments to NC after already reporting it as a scam (and even being told it was likely to be a scam by the FCA) demonstrates to me that any further intervention or scam warnings Barclays could have provided would've likely been ineffective. Mr H has explained how he grew to fully trust the person at NC he was dealing with, so I'm not persuaded Barclays would've been able to prevent him from making further payments in these circumstances.

Therefore, I don't consider it would be fair and reasonable to hold Barclays liable for Mr H's loss, because it seems more likely than not that he would have always continued to make further payments to the scammers, notwithstanding any intervention made by the bank.

Barclays are also under no obligation to refund the money to Mr H under the Contingent Reimbursement Model either, as the Code does not apply to payments which the payer has effectively made to themselves (which would have been the case here given the payments were made to accounts/crypto wallets held in Mr H's name before being moved on to the scammers).

I've also thought about whether Barclays could have done more to recover the funds after Mr H reported the fraud, as in some circumstances the money can be recovered from the receiving bank if it still remains in the account. However, I can see that Barclays reached out to the beneficiary banks but was informed that no funds remained, which isn't surprising given we know they were swiftly transferred out of those accounts to the scammers under the guise of an investment.

I appreciate this will likely come as a disappointment to Mr H, and I'm sorry to hear he has been the victim of a cruel scam. I don't underestimate the impact this has likely had on him and his family. However, while I sympathise with the very difficult circumstances he finds himself in, I'm afraid I'm not persuaded that Barclays can fairly or reasonably be held liable for his loss in these circumstances.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 5 September 2023.

Jack Ferris
Ombudsman