

The complaint

Mr R complains that Barclays Bank UK PLC (“Barclays”) won’t refund over £211,000 he lost to an investment scam.

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.

It isn’t immediately clear that Mr R has fallen victim to a scam here, as there aren’t any FCA or IOSCO warnings about ‘btcusdu.net’ to be found, although I acknowledge that the investment bares many of the common hallmarks of a cryptocurrency scam. But even accepting that Mr R has likely fallen victim to a scam here (rather than losing his money in a high-risk investment), I’m not persuaded that Barclays can fairly or reasonably be held liable for his loss in any event. I’ll explain why.

It isn’t in dispute that Mr R authorised the disputed payments he made from his Barclays account to his crypto wallet (where his funds were subsequently transferred on to the scammer). The payments were requested 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 R 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.

Barclays have accepted that some of the payments were unusual given that they did trigger the bank’s fraud prevention systems and were automatically blocked pending further enquiry – such as those made on 9 June 2022. 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 R about the payments he was making, it asked him whether anyone had contacted him and recommended that he use any platforms to do certain payments, to which he said they hadn’t. Mr R says he wasn’t given a cover story or told to lie to the scammer. But what he told the bank was untrue, given he had been contacted by a broker who was telling him to make payments to the platform ‘btcusdu.net’ via his crypto wallet. Barclays also asked on more than one occasion whether he was dealing with any other third parties or brokers. Mr R consistently said that no one else was involved, and also said that no one else had access to his crypto account, both of which were untrue as well. So, if he hadn’t been told to lie to Barclays by the scammer, it’s not clear why he wasn’t

honest and forthcoming with the circumstances of his investment.

Having considered the questions Barclays asked during its intervention – as well as the responses given by Mr R – I’m not persuaded there was anything further the bank could have done to have prevented the scam. Mr R convinced Barclays that he was making the payments entirely of his own volition and that nobody else was involved. And it was based upon the answers he gave that the bank was satisfied the payments weren’t likely being made as part of a scam. I think Barclays asked appropriate questions of Mr R, which were ultimately led by the answers he gave. If he had answered the questions accurately and said he was in contact with a third-party broker, then I accept it would have been incumbent on Barclays to maintain suspicion about the payment and probe further into the circumstances. But seeing as Mr R was not forthcoming with these details, I don’t think there was any failing on the bank’s part to probe any further, as he had confirmed on several occasions that no one else was involved.

Barclays also warned Mr R that there are scams where victims will be told to purchase Bitcoin and forward it on to third parties, with promises of doubling or tripling their returns, but they will lose their money altogether. Mr R acknowledged this and, despite this being the very scenario he was in, he wanted to continue with making the payment.

As a result, assuming that Mr R has indeed been scammed here, I don’t consider it would be fair and reasonable to hold Barclays liable for his loss, because it seems more likely than not that he would have always made the payment to the scammers irrespective of any intervention by the bank.

Even if Mr R had been honest with Barclays, it doesn’t appear that it would’ve been able to find any warnings or adverse information about the platform he was investing into in any event, and neither would Mr R have found anything either if he had carried out further research. He had also received over £90,000 in credits back from his investment with the scammer, so he wouldn’t have had any cause to believe that he wouldn’t be able to withdraw his profits later down the line either. So, I’m not persuaded Barclays could have reasonably determined that he was being scammed in these circumstances.

I’ve also thought about whether Barclays could have done more to try and recover the lost funds. However, in this instance, the receiving account Mr R paid was his own crypto wallet. We know the money was transferred out from there to the scammer, so there would have been no reasonable prospect of Barclays being able to recover this from the beneficiary bank.

I appreciate this will likely come as a disappointment to Mr R, and I’m sorry to hear he has been the victim of a cruel scam. However, 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 R to accept or reject my decision before 11 December 2023.

Jack Ferris
Ombudsman