

## **The complaint**

Mr H complains that Barclays Bank UK Plc has declined to refund payments he made as part of an investment scam.

## **What happened**

For the purposes of this decision, I'll refer to Mr H in relation to both his submissions and that of his professional representatives.

Mr H says he was contacted through social media with an investment opportunity. He was convinced he was dealing with a broker who could help him profit from investing. As instructed, Mr H made card payments to a cryptocurrency trading platform. He then sent cryptocurrency on to a third party, thinking he was paying a genuine investment company.

Mr H continued to make several payments between 16 November and 10 December 2021, in total spending over £7,000. Mr H realised this was likely a scam when he had trouble withdrawing funds and reported the matter to Barclays.

Barclays declined to reimburse Mr H on the basis that he not undertaken any due diligence before making the payments.

Mr H complained that Barclays didn't do enough to protect him from the risk of fraud in the circumstances, but Barclays didn't agree it had made an error.

When the matter was referred to our service, the investigator didn't uphold the complaint. In summary, they said they didn't think Barclays failed to identify suspicious payments. They didn't think a chargeback would have been successful and explained that the contingent reimbursement model (CRM) Mr H had mentioned didn't apply to card payments.

Mr H accepted the points around chargeback and the CRM but said Barclays ought to have identified the payments as high risk. He said he had made multiple payments to a cryptocurrency platform in a short space of time. And that this activity on a new account was a well-known pattern for fraud.

So, the matter has been passed to me to decide.

## **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'm not upholding this complaint for fundamentally the same reasons as the investigator. I appreciate this will be disappointing for Mr H - and while he has lost money as part of a scam, I'll explain why I don't think Barclays is responsible for this.

Mr H has confirmed that he made the disputed payments and so they were authorised. This means the starting point under the relevant regulations is that Barclays was expected to execute those payments without undue delay.

Barclays also has certain duties to protect its customers, including against the risk of financial loss due to fraud. Barclays should have systems in place to identify unusual transactions or other signs that might indicate its customers are at risk of fraud.

Here, Barclays didn't identify the activity as potentially fraudulent, so I've considered whether the disputed payments here were so unusual or suspicious that they ought to have given Barclays sufficient grounds for suspecting fraud. Having done so, I don't think they were for the following reasons:

- Mr H says that a new payee, on a new account, to a cryptocurrency provider represents a high risk of fraud. Such that Barclays ought to have intervened when he began making payments.
- To this point, I don't think it's unusual for new payees to be set up on new accounts. There is a balance to be struck between the need for Barclays to protect its customers from potential fraud and its obligations to process payments in line with its customers instructions. Here, there's no suggestion that the payee isn't a legitimate cryptocurrency platform. And so, while I agree this type of payee can be considered a relevant risk indicator, I don't think this combination is enough on its own to warrant an intervention.
- Mr H's account was newly opened and so there was no historic account activity to compare the disputed payments to. This means Barclays wouldn't have been able to assess whether the payments were uncharacteristic for Mr H. And Barclays would not have known that Mr H was new to using cryptocurrency.
- The payments aren't in themselves for particularly large amounts – each being for under £1,000. They are spread out over the course of around a month and don't follow a particular pattern, for example ever increasing amounts. In terms of frequency, mostly there is only one per day, with occasionally two being made, and sometimes several days pass between payments. As this pattern of spending is not particularly suspicious, I don't think Barclays has failed in its obligations by not identifying the payments as potentially fraudulent.

For these reasons, I don't think it would be fair to conclude that Barclays ought to have done more to identify Mr H was the victim of a scam and prevent the payments.

For completeness, I have considered the steps Barclays took once it was made aware of the scam. I agree that the CRM isn't relevant in the circumstances as it doesn't apply to card payments. Further I agree a chargeback would unlikely have been successful in the circumstances. The cryptocurrency platform Mr H used had provided the service of converting fiat currency to cryptocurrency and crediting this to his account. He was then able to use this cryptocurrency. Mr H controlled the funds in his account with the cryptocurrency platform, but he had sent these to a third party, so there also wouldn't have been anything for Barclays to recover.

So, for the reasons I've explained, I don't think Barclays has treated Mr H unfairly in declining to refund the disputed payments.

### **My final decision**

My final decision is that I don't 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 13 October 2023.

Stephanie Mitchell

**Ombudsman**