

The complaint

Mr M complains about Barclays Bank UK PLC.

He says that Barclays didn't do enough to protect him when he became the victim of a scam and would like Barclays to refund the money he has lost.

What happened

Mr M had begun an online relationship, after building up trust this individual asked Mr M if he had an interest in learning to trade in cryptocurrency.

Mr M was persuaded to invest and purchased crypto, which he believed was then transferred onto a trading platform where he could see his investment - although this platform was fake.

Mr M was also persuaded to take out a loan and to transfer the funds to a different bank where the money was then paid on to purchase more crypto.

Mr M has lost £85,916.45 to the scam from his Barclays account.

Once he realised, he had been scammed, Mr M complained to Barclays, but it didn't uphold his complaint. He then brought his complaint to this Service.

Our Investigator considered the complaint but didn't think that it should be upheld.

Mr M asked from an Ombudsman to make a final decision, so the complaint has been passed to me.

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 this complaint for broadly the same reasons as out Investigator. I know that this will be very disappointing for Mr M. He has lost a large amount of money and has been tricked by someone he trusted, and I know that this has had a huge impact on him both financially and emotionally.

It isn't in dispute here that Mr M has been scammed – he was contacted under the premise of starting a relationship, but in reality, this was a ruse. He parted with large sums of money while being reassured by this individual that it was a legitimate investment. Then when it came to making a withdrawal, Mr M was allowed to take a small withdrawal, but when the time came to take out larger sums, excuses were made, and more funds were apparently required to do so. The scammer then cut contact with Mr M.

Did Mr M authorise the payments?

In line with the Payment Services Regulations 2017 (PSRs), Mr M isn't liable for payments he didn't authorise, unless he failed with gross negligence or intent to comply with the terms of the account or keep his personalised security details safe. Accordingly, I've considered whether Mr M authorised the payments in question here.

Having done so, I'm satisfied that Mr M did authorise the payments in question here. I understand that Mr M had been tricked by the scammer into instructing Barclays to make the payments – but while Mr M never intended the payments to go to the scammers, this doesn't change the fact that he authorised them and is therefore presumed liable for the loss in the first instance.

Recovery of the payments Mr M made

After the payments were made, I wouldn't reasonably expect Barclays to do anything further until it had been notified there was a scam.

The only recourse for potential recovery of the funds for the payments made by debit card would be via the chargeback scheme. Chargeback is a process by which disputes are resolved between card issuers (here, Barclays) and the merchant (here, the sellers of the crypto that was purchased).

I understand that Barclays raised a chargeback requests on Mr M's behalf, but these were not successful. This is because the sellers of the crypto are legitimate crypto exchanges and provided the services that Mr M requested of them – which was the purchase of crypto. The subsequent transfer of the crypto to a different wallet is therefore a separate matter – and so a successful chargeback would never have been possible – and so I don't think that these payments were recoverable once they had been made.

Should Barclays have reasonably prevented the payments in the first place?

I can only uphold this complaint if I think that Barclays reasonably ought to have prevented some or all the payments Mr M made in the first place – therefore preventing the loss before it happened.

Mr M authorised the scam payments in question here – so as I've explained above, he is presumed liable for the loss in the first instance.

That said, as a matter of good industry practice, Barclays should have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to

act in their customers' best interests, but they can't reasonably be involved in every transaction.

Taking into account the law, regulatory rules and guidance, relevant codes of practice and what I consider having been good industry practice at the time, I consider Bank of Scotland should fairly and reasonably:

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

So, I've carefully considered what this means for Mr M and the payments in question here.

Having looked at the transactions that Mr M has made, I do think that Barclays should have got in touch with him about the payments he was making sooner than it did. Mr M started making payments towards the scam on the 2 June 2022 – but these were not for significantly high or unusual amounts that should have prompted Barclays to take action.

However, by the 10 June 2022, Mr M's account activity had changed significantly, and he was now making large payments to crypto in a short space of time. I would have expected Barclays to contact Mr M at this time, and to question him about the payments he was making, with the intention of uncovering or disrupting a fraud or scam.

That said, in order for me to uphold Mr M's complaint, I would also have to consider that such an intervention would have prevented Mr M from losing his money to the scammer – and I don't think that it would. I'll explain why.

Barclays did contact Mr M twice regarding the payments that he was making – and although I think it should have done so sooner, I also have to consider what Mr M told Barclays during these calls.

Barclays has provided copies of both calls to me, and having listened to what was asked, and the answers Mr M gave, I don't think that Barclays could have done any more than it did, and I'm not persuaded that an earlier intervention would have had a different result.

Barclays questioned Mr M about the payments, who they were to, and if anyone else was involved with the payments. Mr M didn't divulge that he had been in contact with someone who had persuaded him to invest. He also wasn't truthful about his earlier payments to crypto and when questioned about them said he had done this off his own back and had access to the funds. Barclays also questioned him about the loan he had taken (and was transferring the funds to a different bank). Mr M said he was paying off debts – but this wasn't the case, the funds were intended to purchase more crypto via another bank.

Barclays also explained to Mr M that it had seen a lot of fraud involving crypto and warned him about losing his money. I think that it gave him a meaningful warning about scams, but Mr M chose to continue to make payments even after this warning was given.

So, I'm satisfied that Barclays could not have stopped the loss, even if it had intervened earlier than it did.

I do have a great deal of sympathy for the situation Mr M now finds himself in. He has been the victim of a cruel and sophisticated scam. However, the loss suffered is ultimately caused by the scammers, and not Barclays. And I can't ask Barclays to refund this loss when I think it provided meaningful warnings (albeit later than I would like) – and Mr M chose to ignore them.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 August 2023.

Claire Pugh
Ombudsman