

The complaint

Mr B complains that Barclays Bank UK PLC ('Barclays') won't refund the money he lost after falling victim to a scam.

What happened

Prior to 2018, Mr B invested in cryptocurrency through an online company. Mr B lost the funds involved in that investment.

In March 2022, Mr B was called out of the blue by a person who said they were a broker – I'll refer to them as L. L said that he worked for a large reputable bank, which Mr B was aware of. L told Mr B they could help him recover the funds from his previous cryptocurrency investment.

Mr B says L knew personal information about him including: his name, address, date of birth and his mother's maiden name. L also knew details of Mr B's previous cryptocurrency investment. Mr B says that he found L to be professional, confident and knowledgeable. Mr B was told that L could recover the investment balance, but it would have to be done in instalments with a recovery fee paid by Mr B for each instalment.

L asked Mr B to download Anydesk, which L said would allow him to access Mr B's computer so he could help Mr B trade and guide him through the process. A wallet in Mr B's name was opened with a genuine cryptocurrency exchange as part of the process. Mr B says that he had access to this wallet, and that funds were moved from the wallet to the scammer. Mr B was told that the recovery fee had to be paid in cryptocurrency as the original investment was in cryptocurrency.

Mr B made the following payments as part of this scam. The payments were made via P (a money remittance service) and credited to Mr B's cryptocurrency wallet.

Date	Pmt No	Details of transaction	Amount
17.3.2022	1	Payment to P (New payee)	£50.00
21.3.2022	2	Payment to P	£1,950.00
21.3.2022	3	Payment to P (flagged by Barclays)	£3,300.00
21.3.2022	4	Payment to P (flagged by Barclays)	£3,400.00
21.3.2022	5	Payment to P (flagged by Barclays)	£4,100.00
21.3.2022	6	Payment to P	£3,401.00
21.3.2022	7	Payment to P	£3,300.00
		Total payments made	£19,501.00

Barclays say they called Mr B and discussed payments 3, 4 and 5 and, based on the answers he provided, they released the funds.

Mr B says he started feeling uneasy about the recovery process and contacted the cryptocurrency exchange. They told Mr B he was most likely the victim of a scam. Mr B contacted Action Fraud and the large reputable bank that L said he worked for, but L didn't work there. Mr B also raised a fraud claim with Barclays, asking them to refund him.

The cryptocurrency exchange recovered £3,298.05 – which they paid to Mr B.

Barclays investigated Mr B's fraud claim but declined to refund him, saying his loss occurred from his cryptocurrency wallet.

Mr B wasn't happy with Barclays' response, so he brought a complaint to our service.

While his complaint was with our service, Mr B added a professional representative who provided some additional submissions on his behalf.

An investigator looked into Mr B's case but didn't uphold it. The investigator referred to calls Mr B had with Barclays when making the payments, the questions Barclays asked and the answers Mr B had given. Based on that, the investigator felt Barclays had acted reasonably in allowing the payments to go through.

Mr B disagreed with the investigator's opinion, saying he'd been coached by the scammer in how to answer Barclays' questions and that Barclays should've asked more probing questions. Mr B also felt the installation of Anydesk should've been concerning to Barclays.

Mr B asked for his case to be reviewed by an ombudsman.

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.

In broad terms, the starting position in law is that Barclays are expected to process payments that a customer authorises it to make, in accordance with the terms and conditions of the customer's account and the Payment Services Regulations (PSR's).

While Barclays are a signatory to the Lending Standards Board's Contingent Reimbursement Model Code (the CRM Code), it doesn't apply to this case as Mr B made the payments to a cryptocurrency wallet in his own name before sending the funds to the scammer. This means I can't consider the payments under the framework of the CRM Code.

But there is an obligation on Barclays to be on the lookout for, and to protect its customers from, potentially falling victim to fraud or scams. This includes monitoring accounts and identifying suspicious activity that appears out of character. In situations where potential fraud is identified, I would expect Barclays to intervene and attempt to prevent losses for the customer.

When Mr B made the first two payments, I wouldn't have expected Barclays to have identified a scam risk or intervene before following Mr B's payment instructions. I say this because having reviewed Mr B's previous account usage I'm not satisfied that these payments were sufficiently unusual or out of character whereby Barclays should've been concerned.

However, when Mr B made the third payment, Barclays did identify a potential scam risk and called Mr B. As part of this conversation Mr B was asked a number of questions so Barclays could satisfy themselves that his funds weren't at risk. This included the following questions and Mr B's answers (in italics):

- Whether Mr B's cryptocurrency account was fully verified to himself and not someone else - yes

- Prior to this payment, had Mr B bought cryptocurrency from this exchange before – *yes*
- Whether these were Mr B's first payments to the cryptocurrency exchange – *no*
- Had anyone advised Mr B to use this cryptocurrency exchange – *no*
- Were there any brokers or advisors involved in this – *no*
- Barclays told Mr B there was something detected on the device he was using that may allow someone else to use it. They asked whether Mr B had recently installed something like this or something for support like TeamViewer or Anydesk – *no*
- Whether Mr B was using a personal or work computer – *work computer*
- Whether he had used this device before for logging into his online banking – *no*
- Whether there was software on his work computer that allowed IT support – *yes*
- Whether anyone was in control his computer at the time he made the payment – *no one was in control it was just me doing it*
- Barclays then told Mr B - the same software your IT uses, scammers unwittingly get some of our customers to download. Essentially scammers are using it to invade their computer and compromise the security of it – so we're just checking to make sure it's not something you need to be cautious of - *no*
- Whether Mr B had done research into the cryptocurrency marketplace, how it works and what you do with cryptocurrency – *obviously crypto is growing and it's something I'm interested in*
- Barclays then told Mr B - we're just making sure it's genuine because a lot of our people are being contacted and told they can get someone else to do it for them – the scammers use that to get unwitting victims – so we just make sure you are doing it yourself, you are fully knowledgeable in the situation and no one is guiding you to do it – *yes, that is correct*
- Whether Mr B had ever tried to withdraw the funds from his cryptocurrency wallet – *yes, I know how to withdraw the funds*
- Whether anyone had recently contacted him to promote the idea of investment – *no*

Having listened to the call, I'm not satisfied that Barclays could or should have picked up that Mr B wasn't being truthful in answering their questions. Mr B says he was told to be vague, however he answered all the questions he was asked with little hesitation. Also, Barclays explained why they were asking several of the questions, which should've caused Mr B concerns about what he was being asked to do by L - as they were relevant in his circumstances.

When Mr B made the fourth payment, Barclays called him again. Barclays referenced that they'd called him earlier about another payment, but said they wanted to ask some additional questions. This included the following questions and Mr B's answers (in italics):

- Whether Mr B had been told to send money on the promise of the recovery of an old investment – *no*
- Whether Mr B was aware of the risk involved in cryptocurrency investment – *yes*
- If the investment didn't work, could Mr B afford to lose the money – *yes*
- Whether Mr B was satisfied that he was making the payment to a legitimate investment company, whether he had responded to their questions truthfully and taken time to consider why and who he was making payments to – *yes*

There was another call when Mr B made the fifth payment and some additional questions were asked, along with a recap of the questions they had asked Mr B earlier and the answers he had given.

Having carefully considered all of the questions asked, along with the information Barclays gave Mr B as to why they were asking some of the questions – I'm satisfied that Barclays asked appropriate and probing questions to try and establish if Mr B was the victim of a scam. Mr B lied in response to a number of the questions, and I'm not satisfied with his explanation that he was told by the scammer to be vague. I think being told to be untruthful to his bank should've been concerning for Mr B, especially as he believed L worked for a large reputable bank. Also, a lot of the questions that Barclays asked were specific to the circumstances of the scam Mr B was falling victim to and I think that should've resonated with him and been concerning to him. Based on the answers Mr B gave and the tone of the conversation, I'm not satisfied that Barclays asking more questions would've uncovered the scam.

Barclays didn't call Mr B to discuss payments 6 and 7, however I wouldn't have expected them to, based on their previous conversations with Mr B and the answers he'd given them. Also, I think even if Barclays had called about these payments and asked Mr B more questions that it's more likely than not that he wouldn't have been truthful – as happened with the previous calls. So, I'm not satisfied that further calls would've uncovered the scam or prevented Mr B's loss.

I'm sorry to disappoint Mr B, but based on the information I have, I'm satisfied that Barclays acted reasonably in following Mr B's payment instructions. On that basis, I can't fairly ask them to refund Mr B.

My final decision

My final decision is that I don't uphold this complaint against Barclays Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 13 February 2024.

Lisa Lowe
Ombudsman