

The complaint

Mr P complains that Barclays Bank UK PLC (Barclays) won't refund money he lost in a romance/ investment scam.

What happened

What Mr P says:

In May 2022 Mr P met someone on a dating website. He had used the site before and met people in person. He saw a particular profile which he was interested in. He messaged the person and began chatting. He was told that she was originally from Hong Kong but lived in the UK. He was also told that she was in Hong Kong but would be back in the UK in a month and on her return, she would like to meet up with him. They both spoke for a while, getting to know each other. Mr P was told that she worked for her uncle's investment company and that she made a lot of money from this and was her only source of income.

Mr P expressed interest in what the scammer was doing and asked her for more information regarding the investments she was involved in, as he had previously successfully invested himself in 2020.

Mr P began to ask more and more about investments and how much she was making from them. He was sent a screenshot of a trading account and the name of the site she was using. He was provided with details of the investment company and told that this is what she used to invest - if he was interested in getting involved too. The scammer provided a link to the site and an invitation code and told him to not provide it to anyone else.

Mr P clicked on a further link which took him to the trading platform which looked very professional and genuine so at this point he was happy to invest.

Before getting involved in the investment he looked at the website and googled the exchange, he couldn't find any information on the company. He was told by the scammer that the company only opened in May 2022 and he believed this to be true – he thought it made sense that there was a lack of information available. He was told the company was a private placement and had not yet been released on the public market. However, it would be going live on 18 August 2022.

Mr P agreed to begin making investments because he believed the scammer to be a genuine and experienced investor. He made his first payments in June 2022 for £1,000 and £4,000. Following the payments he saw his balance increase on the platform. He would then receive screenshots of the investments he was making and he would follow her advice.

Following placing the investments he could see his balance increasing. He was asked how much he wanted to make and he said he would like to make funds to put towards his home and was made to believe this was attainable. He invested more throughout June 2022 and did receive a refund however does not recall what it was specifically from. He believed this to be from the scammer to add a layer of believability.

Mr P wanted to make a withdrawal and was then told there were taxes and fees to pay. He was desperate to get the money back that he had invested - so complied with the requests which meant he made more payments throughout July 2022 and August 2022

There was then a further request of £20,000 for review fees – Mr P had then run out of money and didn't pay this. After becoming concerned he completed some further checks online and found a lot of negative reviews. One review mentioned about a romance scam, leading to investments. Mr P then realised he had been scammed.

Mr P made the following payments as shown:

Date	Payment	Amount
4 June 2022	Mr P – crypto wallet	£101
6 June 2022	Mr P – crypto wallet	£1,000
6 June 2022	Mr P – crypto wallet	£4,000
14 June 2022	Mr P – crypto wallet	£5,000
14 June 2022	Mr P – crypto wallet	£5,000 (Barclays intervened)
20 June 2022	Mr P – crypto wallet	£60
20 June 2022	Mr P – crypto wallet	£5,050
24 June 2022	Mr P – crypto wallet	£102
27 June 2022	Mr P – crypto wallet	£1,000
27 June 2022	Mr P – crypto wallet	£4,000
27 June 2022	Mr P – crypto wallet	£5,005
29 June 2022	Mr P – crypto wallet	£5,005
4 July 2022	Mr P – crypto wallet	£100
4 July 2022	Mr P – crypto wallet	£1,100
5 July 2022	Mr P – crypto wallet	£105
5 July 2022	Mr P – crypto wallet	£4,000 (Barclays intervened)
5 July 2022	Mr P – crypto wallet	£5,000 (Barclays intervened)
7 July 2022	Mr P – crypto wallet	£2,000
7 July 2022	Mr P – crypto wallet	£3,000
11 July 2022	Mr P – crypto wallet	£2,005
3 August 2022	Mr P – crypto wallet	£30,000 (Barclays intervened)

3 August 2022	Mr P – crypto wallet	£22,500
3 August 2022	Mr P – crypto wallet	£29,000
5 August 2022	Mr P – crypto wallet	£100
5 August 2022	Mr P – crypto wallet	£1,000
5 August 2022	Mr P – crypto wallet	£5,000
5 August 2022	Mr P – crypto wallet	£39,900 (Barclays intervened)
Total payments		£180,123

Mr P received some refunds (he later told us these were from his existing and prior bitcoin investments) – so they are not considered to be part of the scam:

Date	Credit	Amount
15 June 2022	Mr P – crypto wallet	£5055
4 August 2022	Mr P – crypto wallet	£8,470
4 August 2022	Mr P – crypto wallet	£3,171
5 August 2022	Mr P – crypto wallet	£1,102
5 August 2022	Mr P – crypto wallet	£5,000
Total income		£22,798

Mr P says he lost four years of savings in the scam, which has left him feeling anxious and fears for his future and that of his business. He feels guilty about what happened and is embarrassed the scammer took advantage of him.

Mr P says he wasn't an experienced investor and Barclays let him down. He says Barclays didn't provide scam warnings or guidance. He says Barclays should refund the money he's lost, plus 8% interest and compensation of £500.

What Barclays said:

Barclays declined to make any refunds. They said the Contingent Reimbursement Model Code (CRM) didn't apply as the payments were sent to an account in Mr P's name – his crypto wallet. Mr P had trading experience going back to 2020. He didn't exercise reasonable judgement when making the payment. He only knew the scammer for a short while before sending money. Barclays said they'd intervened on more than one occasion in the payments – and Mr P denied any outside influence in those conversations.

Barclays paid compensation of £200 for not dealing with Mr P's fraud claim within their guidelines of 15 days.

Our investigation so far:

Mr P brought his complaint to us. Our investigator didn't uphold it. She said:

- The first four payments were in line with Mr P's normal account activity.
- Barclays should've intervened in the five payments on 14 June 2022, 5 July 2022 (two); 3 August 2022 and 5 August 2022 – which they did.
- In the conversations (which were scripted), Mr P said no third party was involved, he didn't click on any links and he didn't share his account details with anyone – this wasn't truthful.
- On 3 August 2022 he was asked to go to a branch before the payment could be released, it was likely the same conversation took place at the branch, although there were no notes of it.
- Mr P made healthy returns from the investment and so it was likely he thought the investments were genuine – any further warnings were unlikely to have had any effect.

Mr P didn't agree. He said Barclays' warnings weren't adequate. Mr P didn't mislead the bank. He told Barclays there wasn't a broker or third party involved – which was the case as he'd met someone on a dating site and she wasn't a broker; on his visit to the branch his account was simply unlocked (after he gave his ID), there wasn't any discussion about possible fraud; Barclays gave generic warnings and in one case the warning was about a safe account scam – which wasn't relevant.

Mr P asked that an ombudsman look at his complaint, and so it has come to me to do that.

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.

I'm sorry to hear that Mr P has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr P didn't intend for the money to go to a scammer, he is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case. But that is not the end of the story. Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Barclays should fairly and reasonably:

- Have been monitoring accounts and any payments made or 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 that its customers were at risk of fraud (among 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.

- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make 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.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) doesn't apply in this case. That is because it applies to faster payments made to another UK beneficiary – and in this case, the payments were made to Mr P's own account - his crypto wallet.

I need to decide whether Barclays acted fairly and reasonably in its dealings with Mr P when he made the payments, or whether it should have done more than it did. I have considered the position carefully.

The first consideration here is: if the payments were of a sufficient size and were out of character with how Mr P normally used his account – then we would expect Barclays to have intervened and spoken to him.

I looked at Mr P's account and it's fair to say that the payments were unusual. There was one large payment for £14,000 in May 2022, but other than that, Mr P used his account for daily outgoings of low value. I noticed there were some payments in favour of bitcoin investments from December 2020 up to January 2022, but these were for lower amounts – usually up to £1,000. So – on balance, we would've expected Barclays to intervene in some of Mr P's payments in respect of the scam in question.

The crux of this complaint comes down to the calls Barclays had with Mr P. I asked for, and listened to the calls dated 14 June 2022 (£5,000 payment) and 4 July 2022 (£4,000 payment). Both payments had been held by Barclays pending conversations with Mr P.

14 June 2022: £5,000 payment: I consider this to be a strong and detailed call, and I quote some key parts of it:

Mr P: *it's a good time to buy (bitcoin)...*

Barclays: did you make the payment yourself? Mr P: *yes*

Barclays: Did you make the (previous payment) of £101 before? Mr P: *yes, it was a test as I hadn't used Binance in quite some time.*

Barclays: Did you set up your (crypto wallet) yourself? Mr P: *yes.*

Barclays: How long have you been doing this investment? Mr P: *since 2020, but not much this year.*

Barclays: Has a broker or anyone else been involved with this investment? Mr P: *no*

Barclays: Have you spoken to anyone for advice e.g. a qualified advisor? Mr P: *no*

Barclays: Have you checked the investment firm on the FCA website? Mr P: *no*

Barclays: We recommend you check with the FCA website for scam companies – look at it.
Mr P: *But I have used Binance a lot.*

Barclays: There is a lack of protection (with these investments). Mr P *then gave a description*

of how he used the app and made the investments into bitcoin.

Barclays: Are you aware of the risk of investing (in bitcoin)? Mr P: *yes*

Barclays: Are you aware there is no protection? Mr P: *yes I want to buy today, I'm losing out right now.*

Barclays: Are you aware there is a lack of protection? Mr P: *yes, I'd like to proceed.*

Barclays: Have you clicked on a link from social media or similar? Mr P: *no*

Barclays: Has anyone asked you to make this payment or over the phone? Mr P: *no*

Barclays: Is it your sole decision to put this through? Mr P: *yes*

Barclays: Are you fully aware of the risks involved? That it can go up or down? Mr P: *yes*

Barclays: Are you satisfied you've done research into where you are sending this money to? Mr P: *yes*

Barclays: Once a payment has been sent, if it turns out to be a scam, there's no guarantee we can recover the money - understand? Mr P: *yes*

The payment was then released.

4 July 2022: £4,000 payment: I consider this was also a strong call and I quote some of it:

Barclays: The payment for £4,000 has been held. Mr P: *I don't know why this keeps happening, it happened before. It used to be much quicker before now.*

Barclays: Scams are more professional now and customers are losing a lot of money. Mr P: *yes, I heard about one yesterday – she fell for it twice!*

Barclays: Serious investors have been scammed... Mr P: *I want to do this as quickly as possible. It is to the same recipient as before.*

Barclays: Have you been asked to send money to the investment on a promise of recovering money from an old investment? Mr P: *no*

Barclays: Have you clicked on a link provided on social media? Mr P: *no*

Barclays: Has someone asked you to open this account? Mr P: *no*

Barclays: Have you dealt with a broker or someone else to make this investment? Mr P: *no*

Barclays: How did you find out about this investment? Mr P: *through a friend of mine. I've already done quite a bit in investing and have done my research.*

Barclays: Did you check the FCA website? Mr P: *no*

Barclays: Are you aware Binance has been banned in the UK? Mr P: *yes*

Barclays: Are you aware of the risk of this investment? Mr P: *yes*

Barclays: Can you afford to lose the money? Mr P: *yes*

Barclays: We expect you to answer our questions truthfully. If this turns out to be a scam, it's unlikely we can recover the money. Do you understand? Mr P: *yes I fully understand.*

Barclays: Are you satisfied you've completed enough checks on this company? Mr P: *yes*

The payment was then released.

These two calls were very thorough and:

- Warned Mr P of the risks of investing in bitcoin.
- Warned Mr P that the money couldn't be refunded if it was a scam.
- Asked Mr P if anyone else was involved – to which he said there wasn't (when in fact there was).
- Asked Mr P if he'd clicked on a link from social media – to which he said he hadn't, when in fact he told us he had done so.
- Mr P said he had done his research – when he told us he hadn't done very much and took the contact's word for it.
- Mr P said he had made such investments before. On the calls, he appeared very confident that he knew what he was doing.

In support of what Mr P said on the call, I looked at his bank statements – and he made about 70 payments to bitcoin firms between December 2020 and May 2022, albeit for lower amounts - usually up to £1,000.

We asked Mr P about the credits totalling £22,798 in July 2022 and August 2022 – and he told us these were from his existing, previous bitcoin investment (and not refunds from the scam). So – it appears he was a fairly experience bitcoin investor; and this comes across in the calls with Barclays.

I then considered whether it's reasonable that Barclays should've intervened in some of the other payments. They did intervene in the payment of £30,000 on 3 August 2022 – when Mr P's account was blocked and he was asked to go to a branch to unlock it. The notes say he did this – and the account was unblocked. So – it doesn't appear a scam conversation was intended then, nor did one take place.

There isn't a recording of the call on 5 August 2022 (£39,900). Between the last call I listened to (5 July 2022), and the end of the scam, Mr P made further payments of £134,505, without any substantive or evidenced intervention from Barclays. I think it's reasonable to say Barclays should've intervened in some of the payments – as the outgoings from Mr P's account increased to a substantial level.

I therefore considered what might have happened had Barclays intervened in some of these payments. And here, I'm persuaded that Mr P would still have gone ahead. I say that - based on his responses to the previous intervention calls; Mr P's confidence in his answers; and his prior bitcoin investment experience – he appeared as very sure that he felt he knew what he was doing.

I also think it's reasonable to say that the first calls were so thorough so as to persuade me to think that any further calls would've been similar in content - and Mr P's responses would've been the same.

I asked to see the WhatsApp chats between Mr P and the other person - and these show he was completely taken in by her and believed in the investments he thought he was making. He refers in the chats to his previous bitcoin experience and says he wanted to do more.

So – on balance, I'm persuaded that any further interventions from Barclays wouldn't have stopped Mr P from making the further payments.

Therefore, I don't think it's reasonable to hold Barclays liable for the amount of the payments.

Recovery

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Barclays took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money. I can see that Mr P contacted Barclays on 9 August 2022 and Barclays contacted the recipient bank provider of the crypto wallet on 10 August 2022. I've seen that by then, no funds remained. So here – Barclays did what we would expect of them.

I'm sorry Mr P has had to contact us in these circumstances. I accept he's been the victim of a cruel scam, but I can't reasonably hold Barclays responsible for his losses.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 11 January 2024.

Martin Lord
Ombudsman