

The complaint

Mr A complains that Barclays Bank UK PLC (Barclays) is refusing to refund him the amount he lost as the result of a scam.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mr A was contacted by an individual (X) over a popular dating app in early July 2022. Mr A got talking to X and started to build trust with her sharing information and realising they wanted similar things from life.

Before long Mr A was communicating with X via messages and calls and the conversation turned to that of investment in cryptocurrency. X explained that the profits made from investing could help support their future together.

Mr A was sceptical of the investment at first but was comforted by X's professional attitude and that she was sending screen shots of a trading platform that appeared to show she was making a fair return from investing herself.

Convinced by X Mr A agreed to start investing. X walked Mr A through creating a cryptocurrency account with Banxa and how to send funds from Banxa to his account on the trading platform X was using.

Mr A has told us his investments showed a profit and he was able to make an initial withdrawal. As Mr A's confidence built, he invested more, but when he tried to make a larger withdrawal from the trading platform errors appeared on the page asking him to make more payments.

It was clear Mr A had fallen victim to a scam and he has not been able to recover any of the payments he made.

Mr A made the following payments into the scam Via Banxa:

Date	Merchant	Payment Method	Amount
12 August 2022	Banxa	Debit Card	£550.00
15 August 2022	Banxa	Credit	- £557.67
15 August 2022	Banxa	Debit Card	£1,000.00
16 August 2022	Banxa	Debit Card	£1,000.00
17 August 2022	Banxa	Debit Card	£4,000.00
18 August 2022	Banxa	Debit Card	£4,000.00
21 August 2022	Banxa	Debit Card	£2,000.00
21 August 2022	Banxa	Debit Card	£4,225.00
21 August 2022	Banxa	Debit Card	£4,225.00
21 August 2022	Banxa	Debit Card	£2,800.00
22 August 2022	Banxa	Debit Card	£3,300.00

26 August 2022	Banxa	Debit Card	£4,245.00
26 August 2022	Banxa	Debit Card	£4,260.00
26 August 2022	Banxa	Debit Card	£4,259.00
28 August 2022	Banxa	Debit Card	£4,255.00
28 August 2022	Banxa	Debit Card	£1,000.00

Barclays initially refunded Mr A for the loss he had incurred while it investigated. When Barclays decided it was unable to offer a refund to Mr A it debited his account again. I understand there was a discrepancy between these two figures that has since been resolved. This issue does not form part of this complaint.

Our Investigator considered Mr A's complaint but didn't think it should be upheld. Mr A disagreed so this complaint 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.

It has not been disputed that Mr A has fallen victim to a cruel scam. The evidence provided by both Mr A and Barclays sets out what happened. What is in dispute is whether Barclays should refund the money Mr A lost due to the scam.

Recovering the payments Mr A made

Mr A made payments into the scam via his debit card. When payments are made by card the only recovery option Barclays has is to request a chargeback.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Mr A was dealing with X, which was the person that instigated the scam. But Mr A didn't make the payments to X directly, he paid a separate cryptocurrency exchange (Banxa). This is important because Barclays would only have been able to process chargeback claims against the merchant he paid (Banxa), not another party.

The service provided by Banxa would have been to convert or facilitate conversion of Mr A's payments into cryptocurrency. Therefore, Banxa provided the service that was requested; that being the purchase of the cryptocurrency. The fact that the cryptocurrency was later transferred elsewhere – to the scammer – doesn't give rise to a valid chargeback claim against the merchant Mr A paid.

With the above in mind, I don't think Barclays had any recovery options available to it for the payments Mr A made.

Should Barclays have reasonably prevented the payments Mr A made?

It has been accepted that Mr A authorised the payments that were made from his account with Barclays, albeit on X's instruction. So, the starting point here is that Mr A is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Barclays should have been aware of the scam and stepped in to question Mr A about the payments he was making. And if it had questioned Mr A would it have been able to prevent the scam taking place.

Mr A started making payments into the scam via the cryptocurrency exchange Banxa in August 2022.

Between the 12 and 17 August 2022 Mr A sent four payments on different days, each payment was less than £5,000.

The payments Mr A was making were to a legitimate business and it would not be reasonable for me to suggest Barclays should step in every time one of its customers makes a payment to a new legitimate business, even if they haven't made a payment to that business before. The values of the payments were also not so significant that I would have expected Barclays' fraud prevention systems to have been triggered prompting it to step in and question Mr A about what the payments were for.

After these initial payments Mr A made further payments of a higher value but these payments were also below the amounts I would have expected to trigger Barclays fraud prevention systems. And although Mr A made some payments on the same day, by this time he had made several payments to Banxa without complaint which would support the view that he was happy to make payments to Banxa in general and therefore not cause Barclays concern.

Overall, I think it was reasonable that Barclays' fraud prevention systems were not triggered by the payments Mr A made and that it did not step in to prevent them.

Mr A has further said that the payments he made to Banxa were not in keeping with the way he normally operated his account. But I can see that Mr A had previously made large payments from his account, and while these payments may not have been for crypto investment these payments do show that Mr A had made large payments from his Barclays account before, and this was not uncommon for him.

Mr A has also told us that other payments have been stopped both in the past and after the scam took place, so he doesn't understand why the payments into the scam were not. While I can appreciate Mr A's frustration, I am unable to comment on Barclays' fraud prevention systems on a whole, only the way they did/didn't respond to the payments Mr A has complained about. Fraud prevention systems can be triggered for many reasons and even randomly on occasion. The fact that other payments unrelated to the scam have been stopped does not affect the outcome of this complaint.

For these reasons and those I've explained above Barclays is not responsible for Mr A's loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 4 January 2024.

Terry Woodham
Ombudsman