

The complaint

Mr A complains that Barclays Bank UK Plc won't refund the money he lost to an investment scam.

Mr A is professionally represented in bringing his complaint, but for ease of reading I'll refer to all submissions as brought by Mr A directly.

What happened

Mr A has explained that he received a call from a lady claiming to work for an investment company, who could help Mr A make money through trading. Mr A believes he may have registered interest online for investment opportunities but cannot recall. Mr A researched the company online and found a legitimate appearing website and positive online reviews. On this basis Mr A agreed to be contacted by an account manager. Unknown to Mr A at the time, the 'investment company' was in fact a scam.

The following day Mr A was contacted by a fraudster purporting to be acting as Mr A's account manager. Mr A was talked through the trading platform, advised of the account manager's 'commission fees' and told that he could make upwards of £500,000 over a few years, depending on how much he wished to trade. Mr A found the fraudster professional and knowledgeable.

Mr A downloaded software that allowed the fraudster to access his desktop and was talked through opening several cryptocurrency accounts. He then attempted to make a payment transfer of £2 to an online wallet, followed by a second £5,000 payment. The £2 payment was returned the following day. Barclays declined the £5,000 payment and suspended Mr A's online banking, pending questioning over the payment.

Mr A called Barclays to discuss the payment, but as Barclays wasn't satisfied with his responses, it referred Mr A to branch. When in branch, Barclays' notes from the time state that Mr A told staff he was making cryptocurrency payments to an account that an investment company had provided the details of. It said information Mr A provided was contrary to what he'd said in his earlier call with previous staff members and Barclays therefore had concerns Mr A was being scammed, so invoked Banking Protocol.

Barclays notes suggest Mr A became aware at this time he was being scammed, and consented to the Police contacting him. Mr A called Barclays the following day to advise he'd spoken to the Police, although said the Police seemed unclear as to why they were speaking to him, as Mr A no longer wanted to make the payment. Mr A was advised that his account had been unblocked, but that he'd need to attend his branch in future for payments of this kind.

Mr A has a different recollection of the events in branch. He states it's not true that he knew he'd been scammed as he hadn't lost any money at this time. He said he did speak to the Police, but the Police didn't seem to know why they needed to call him.

Following this branch interaction, the fraudster suggested Mr A open a new e-money account, which Mr A then transferred funds to from his Barclays account. From his new e-money account, Mr A then moved funds on to cryptocurrency wallets. Mr A was told that once he had \$200,000 in profits in his account, he would be able to use it as a weekly income. However, once Mr A had reached this perceived profit level, he received falsified correspondence from the cryptocurrency account provider, advising his account had been blocked and in order to unblock it, he needed to pay a \$50,000 fee. Mr A made this payment, after which the fraudster ended contact with Mr A and he realised he'd fallen victim to a scam. Overall Mr A made the following payments towards the scam:

Date	Transaction type	Amount
05/01/2023	Faster payment to online wallet	-£2.00
05/01/2023	Faster payment to online wallet, stopped by Barclays	£5,000 payment stopped
06/01/2023	Payment returned from online wallet	£2.00
18/01/2023	Faster payment to e-money account	-£20.00
18/01/2023	Faster payment to e-money account	-£20,000.00
16/02/2023	Faster payment to e-money account	-£12,000.00
20/02/2023	Faster payment to e-money account	-£45,000.00
23/02/2023	Faster payment to e-money account	-£20,000.00
02/03/2023	Faster payment to e-money account	-£50,000.00
02/03/2023	Payment returned from e-money account	+£50,000.00
02/03/2023	Faster payment to e-money account	-£1,000.00
02/03/2023	Payment returned from e-money account	+£1,000.00
03/03/2023	Faster payment to e-money account	-£48,000.00
03/03/2023	Payment returned from e-money account	+£48,000.00
10/03/2023	Faster payment to e-money account	-£50,000.00
14/03/2023	Faster payment to e-money account	-£50,000.00
15/03/2023	Faster payment to e-money account	-£50,000.00
17/03/2023	Faster payment to e-money account	-£50,000.00
24/03/2023	Faster payment to e-money account	-£50,000.00
	Total loss	£347,020.00

Mr A contacted Barclays in May 2023 to make it aware of the scam and raise a claim. Barclays considered whether it was liable to reimburse Mr A, however, it concluded that as Mr A moved funds from his Barclays account to another account in his own name, Mr A's losses did not occur from his Barclays account. It therefore didn't consider it was liable to reimburse him.

Mr A disagreed with Barclays' response and so referred his complaint to our service. An investigator considered Mr A's complaint but didn't uphold it. She considered that Barclays had invoked Banking Protocol and advised Mr A it believed he was being scammed, but Mr A chose to proceed with further payments. She therefore didn't consider any further intervention by Barclays in later payments would've stopped the scam from occurring.

Mr A disagreed – he considered Barclays had been put on notice of the scam he had fallen victim to, but Barclays allowed him to continue making out of character payments. Mr A considers that the payments he made ought to have been such a concern to Barclays, that further payments should've been blocked pending further questioning.

As Mr A disagreed with the investigator's view, the complaint has been referred to me for a final decision.

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 want to start by saying how very sorry I am to hear of the impact this scam has had on Mr A. I want to assure Mr A that I don't underestimate the immense strain this must have placed on him. However, my role is purely to look at the actions of Barclays and whether it ought to have done more to protect Mr A in the circumstances. Having done so, while I'm sorry to disappoint Mr A, I'm not upholding his complaint. I'll explain why.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the consumer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the consumer even though they authorised the payment.

The Contingent Reimbursement Model (CRM) Code can provide additional protection for the victims of APP scams such as this was. However, payments made to another account belonging to the scam victim are not within the scope of the CRM Code. So I cannot fairly apply the terms of the CRM code to any of the payments Mr A has made.

However, taking into account regulator's rules and guidance 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 firms are generally more familiar with than the average customer.
- 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 decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.
- Have been mindful of – among other things – common scam scenarios, the evolving fraud landscape (including for example the use of multi-stage fraud by scammers) and the different risks these can present to consumers, when deciding whether to intervene.

Should Barclays have fairly and reasonably made further enquiries before processing Mr A's faster payments?

It isn't in dispute that Mr A has fallen victim to a cruel scam here, nor that he authorised the disputed payments he made from his account, but I've thought about whether Barclays should have reasonably intervened in any further payments made.

I've considered the fact that Barclays *did* intervene in the first higher value payment Mr A made and that, identifying a fraud concern, went as far as invoking Banking Protocol, resulting in Mr A speaking with the Police. The version of events surrounding this intervention differ between Barclays and Mr A – while Barclays has stated Mr A was aware he had fallen victim to a scam at this point, Mr A disputes this. Either way, I think that for Barclays to have invoked Banking Protocol, there would need to have been a strong indication that Mr A was falling victim to a scam – and I think that as well as involving the Police, it's more likely than not that Barclays would have made Mr A aware of this concern (as is also suggested by Barclays' contemporaneous notes from both 5 January 2023 and 9 January 2023, pre and post Police intervention.)

Despite this warning and Police intervention, Mr A continued to make payments towards the scam. By transferring funds first to another account in his name, I think this demonstrates that Mr A was aware that payments through Barclays may be stopped and he was therefore attempting to bypass this process.

Therefore, while I think that subsequent payments made by Mr A to his e-money account were out of character and further intervention would've been appropriate (regardless of whether these payments went to an account controlled by Mr A), I can't conclude that this would've resulted in Barclays stopping the scam. I say this as I think Barclays had already taken reasonable steps to protect Mr A from financial harm, but Mr A's actions suggest he was determined to continue making further payments towards the scam, in spite of warnings provided by Barclays.

Recovery of funds

Lastly, I've considered whether Barclays did all it could to recover Mr A's funds once it was made aware of the scam. Given Mr A made the payments to his own account held with another firm, I'm not persuaded there's anything Barclays could have done to recover his funds as this would require Barclays to raise a fraudulent claim against Mr A's own account.

Overall while I'm sorry to disappoint Mr A – and I don't underestimate the impact this cruel scam will have had on him - I haven't determined that Barclays can be held responsible for his losses and I therefore don't require it to reimburse him.

My final decision

My final decision is that I don't uphold Mr A's complaint about Barclays Bank UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 12 June 2024.

Kirsty Upton

Ombudsman