

## The complaint

Mr L complains that Barclays Bank PLC ('Barclays') won't refund the money he lost when someone he knew encouraged him to invest in a scheme he was running.

## What happened

Mr L says that someone who had been a classmate of his for one semester (who I'll refer to as A) approached him and asked him to get involved in a savings/investment scheme. A came from the same country as Mr L which gave him confidence in the scheme. Mr L and others would pay into the scheme and then each of the savers would receive a payment of twice what they paid in.

Mr L made the following payments by bank transfer because A said this meant there was a record of what each individual had paid:

Date	Amount	Recipient
19/04/21	£540	1
29/04/21	£540	2
14/05/21	£540	3
14/05/21	£1,080	4
15/05/21	£1,080	4
<b>Total</b>	<b>£3,780</b>	

When it came to his turn to receive funds Mr L didn't receive anything and was then unable to contact A.

Mr L contacted Barclays on 11 November 2021 and explained what had happened. Barclays said Mr L has a civil dispute with A, as he knew A and had discussed the investment opportunity with him. Barclays contacted the banks that received Mr L's funds but were unable to recover anything. Mr L was unhappy with this response and brought a complaint to this service.

### *Our investigation so far*

The investigator who considered this complaint didn't recommend that it be upheld. He felt Mr L was the victim of a scam, but he didn't have a reasonable basis for believing the scheme he was paying into was genuine. The investigator also said that Barclays didn't need to intervene when the payments were made, as the warnings it provided went far enough.

Mr L didn't agree with the investigator's findings, so the complaint was passed to me to consider. He said he thought that because he paid by bank transfer his funds were safe and he can't understand why Barclays aren't questioning A and making him return Mr L's funds. Mr L also referred to the difficult financial position he is now in.

I issued a provisional decision on 18 September 2023. I said I was provisionally minded not to uphold Mr L's complaint as I thought he had a civil dispute with A. In the "What I've provisionally decided – and why" section of my provisional decision I said:

*"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – in other words on what I consider most likely to have happened based on the evidence available and the surrounding circumstances.*

*I'm sorry Mr L has lost money in these circumstances. I understand the huge impact the loss has had on him. The issue here though is not whether Mr L received what he expected, but whether Barclays is responsible for the loss.*

*A bank has a primary obligation to carry out the payment instructions its customers give it. As a starting point, a customer is therefore assumed liable for a payment they have instructed to be made.*

*Under the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code), the starting principle is that a firm should reimburse a customer who is the victim of an APP scam (except in limited circumstances). But the CRM Code does not apply to private civil disputes. It only applies where the customer has been the victim of an APP (authorised push payment) scam, which is defined in the CRM Code as:*

*"...a transfer of funds...where*

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent."*

*It's difficult to establish whether Mr L was the victim of a scam and I do not have the power to compel A and the other recipients to testify to their versions of events or instruct a police investigation into the matter. Instead, I'm restricted to considering what I think is more likely than not based on the evidence available to me.*

*To decide the payments Mr L made were part of an APP scam I'd need to be satisfied that A intended to defraud Mr L from the outset. I don't have any evidence to persuade me this is most likely what happened here. The fact that Mr L paid someone he knew doesn't in itself mean that he hasn't been scammed. But there's just no evidence in this case except what Mr L has told us and based on this the scheme sounds similar to the chit system. But Mr L's description of how he was meant to receive a return doesn't fit with it so it's not possible to say it's more likely than not that this was what was happening.*

*I've also seen confidential information from the banks that received Mr L's funds, including from A's bank. I can't share any detail about this information but can't say it leads me to believe it's more likely than not Mr L was the victim of an APP scam.*

*Even if I did think Mr L was the victim of an APP scam, I still wouldn't be asking Barclays to provide him with a refund. After considering Mr L's previous account activity I don't consider any of the payments were so unusual or out of character that Barclays should have done anything more. Mr L had made payments for similar and larger amounts in the months before the scam so I don't think any of the payments Mr L made would have stood out or led Barclays to take any additional steps.*

*I'm also satisfied Mr L didn't take any steps to satisfy himself that what A told him was right or had any reason to believe he would receive twice the amount he paid in back. There was no written agreement to set out what the parties agreed to and no understanding of why Mr L would receive a return, particularly as funds paid in weren't invested. I think Mr L placed a lot*

*of trust in someone he didn't know very well. So even if I considered that Mr L was the victim of an APP scam that the CRM Code applied to, I wouldn't be upholding this complaint.*

*Although Barclays said Mr L wasn't the victim of a scam it tried to recover his funds from the receiving accounts, but no funds remained. I think Barclays acted reasonably in trying to recover the funds.*

*Mr L told this service he thought Barclays would provide protection because he transferred funds from his account with Barclays. Paying by faster payment is like paying by cash in that protections offered when you pay by card aren't available.*

*I realise that Mr L will be disappointed with my decision but overall, for the reasons I've explained, I can't fairly or reasonably ask Barclays to refund the money he lost."*

Barclays didn't respond to my provisional decision. Mr L said he had nothing further to add.

### **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.

After reviewing my provisional decision neither party has raised any further points for me to consider. For the same reasons as I set out in my provisional decision (and reproduced above) I consider that Mr L has a civil dispute with A.

### **My final decision**

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 14 November 2023.

Jay Hadfield  
**Ombudsman**