

## The complaint

Mr N complains that Barclays Bank UK PLC won't refund money he lost when he was a victim of a scam.

## What happened

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

In November 2022 Mr N met someone, that we now know to be a scammer, on a dating app. After forming what Mr N believed was a genuine romantic relationship with the scammer, he was persuaded to invest in crypto. He sent funds to a legitimate crypto exchange before forwarding them onto another trading platform, as advised by the scammer. Mr N also took out a loan for £7,300 on 2 March 2023 to fund the investment.

The relevant scam payments are:

Date	Type	Amount
7 December 2022	Faster payment	£1
24 January 2023	Faster payment	£1
24 January 2023	Faster payment	£1,000
24 January 2023	Faster payment	£2,400
24 January 2023	Faster payment	£6,580
30 January 2023	Debit card payment	£7,938.01
7 March 2023	Debit card payment	£7,209.30
	<b>Total</b>	<b>£25,129.31</b>

There was also a £1,000 payment cancelled, at Mr N's request, on 11 December 2022.

Mr N realised he'd been scammed when, after requesting a withdrawal of funds, he was told there would be a fee of about £4,000.

Mr N complained to Barclays, with the assistance of a professional representative, on 27 April 2023 saying the payments were made as part of a scam. He said, although Barclays contacted him regarding one of the payments, they failed to protect him from it by not providing him with an impactful or effective scam warning. And despite having concerns, Barclays still allowed the payments to be made. He said if Barclays had asked more probing questions then he wouldn't have gone ahead with the payments. So, Mr N wanted Barclays to reimburse him his losses and pay 8% simple interest.

Barclays didn't uphold the complaint. They were sorry to hear Mr N had fallen victim to the scam but said they had an effective conversation with him on 11 December 2022, when the payments became out of character for him. And this conversation resulted in Mr N cancelling the payment to give him more time to pause and reflect. They also spoke with Mr N again on 24 January 2023 about the payments that were processed – and from their conversations, as well as Mr N's cancellation of the payment, they were unable to establish it was a scam. Barclays also added that Mr N made payments on the advice of someone he'd not met in

person. And given the weight of the investment and the drawing of a loan to fund it, he ought to have shown more caution to ensure it was legitimate.

The complaint was referred to the Financial Ombudsman but our Investigator didn't think Barclays had to do anything further. He explained that he'd listened to the two calls between Mr N and Barclays about the scam payments and thought Barclays provided appropriate scams warnings – with Mr N wanting to proceed on the second occasion. He also didn't think Barclays should've refused to process the payments as when they asked whether he was dealing with a broker or anyone else when making the investment, he said he wasn't. Whereas if Mr N had answered this accurately, our Investigator said Barclays would've been able to provide more relevant advice and warnings – potentially uncovering and preventing the scam.

Mr N didn't agree and, in short, he added:

- Although he can converse in English, it is not his 'strong suit'. He was born and raised abroad and so may struggle with financial and technical terms. He would've understood better with a speaker in his preferred language.
- It's important to emphasise the psychological manipulation involved in this romance investment scam. He considered the scammer his girlfriend and trusted her. And this created vulnerability which the scammer exploited for financial gain. Because of this, it impacted his ability to recognise the fraudulent nature of the investment – hence why he did not consider her as his broker.
- Although the calls were some time ago, he recalls mentioning to Barclays that a friend or girlfriend was involved.
- Barclays never flagged the money he borrowed and sent to the scammer – which was after the two calls took place.
- The crypto exchange he sent his funds to was a middleman, as it was then forwarded on to the trading platform which has now folded.

Our Investigator added that while English may not be Mr N's strong suit, he didn't hear Mr N raise this with Barclays in the calls. And as it wasn't raised, Barclays wouldn't have known his English wasn't good enough when discussing financial and technical terms. Because of this, he didn't think Barclays could be considered responsible if a question they asked wasn't answered accurately. He also didn't hear Mr N refer to his girlfriend in either call – whereas when Mr N was asked if anyone else was involved in the investment, he said no. And in regard to the loan that was applied for, our Investigator highlighted that borrowing money to invest carried a significant risk in which a simple internet search – had Mr N undertaken - would've confirmed.

Mr N asked for his complaint be reviewed by an Ombudsman, and so it's 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.

I'm sorry Mr N has been the victim of a scam and I don't underestimate the impact this had on him – from both a financial and an emotional perspective. But while I'm sympathetic to Mr N's situation, I must consider whether Barclays is responsible for the loss he has suffered. And while I realise this isn't the outcome Mr N is hoping for, for similar reasons as

our Investigator, I don't think they are. I therefore don't think Barclays has acted unfairly by not refunding the payments. I'll explain why.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. It isn't disputed that Mr N knowingly made the payments from his Barclays account and so, I'm satisfied he authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of his account, Barclays are expected to process Mr N's payments and he is presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for Barclays to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

Here, Barclays identified Mr N's payments as suspicious and spoke with him on two occasions. The first being on 11 December 2022 about the £1,000 payment which, because of the conversation, was cancelled. And on 24 January 2023 regarding the successful £6,580 payment. I think Barclays acted reasonably by carrying out additional checks before processing these payments. I've therefore thought about whether Barclays did enough to protect Mr N from the scam.

The payments were made to a legitimate crypto exchange. And while there are known fraud risks associated with crypto, as scams like this have unfortunately become more prevalent, many customers legitimately invest in crypto. Barclays therefore must strike a balance between allowing customers to be able to use their account and questioning transactions to confirm they're legitimate.

Having carefully listened to the two calls, I think Barclays questioned Mr N appropriately about the payments. As, from their questioning, Mr N confirmed:

- He'd opened the crypto account (wallet) himself and had full control of it – with nobody else having access or knowing his account/password details.
- He hadn't allowed anyone access to his PC as part of setting up or making the investment.
- He hadn't rushed or been pressurised into making the investment. And it wasn't prompted by him receiving any texts or calls asking him to make the payment.
- He understood the volatility and risks of crypto, and he'd carried out his own research.
- He found out about this investment opportunity from a friend. But there wasn't a broker or anybody else involved in making the investment.

Considering what Mr N told Barclays, I don't think they would've had sufficient reason to suspect he was at risk of being scammed. This is because, while Mr N explained he was told about the investment from a friend, he confirmed to Barclays that there wasn't anybody else involved in the investment – and that only he had access to his crypto wallet which he opened himself. And so, I think Barclays would've been reassured that Mr N was investing in his own right without any influence or direction from a third party – which is a key feature of crypto investment scams.

It's unclear why Mr N didn't tell Barclays about the advice he was getting from the scammer when questioned. This may have been because, due to Mr N's belief of being in a genuine romantic relationship, he didn't see the scammer as a broker or somebody involved with his

investment. But I don't think I can hold Barclays responsible for that – and it was reasonable for them to accept the information Mr N provided in good faith.

I also appreciate Mr N has told us English isn't his preferred language which may have affected his understanding of financial and technical terms. But while I accept there were some difficulties for Mr N speaking with Barclays, I think Barclays made reasonable attempts to explain their line of questioning as clearly as possible. And I'm not persuaded that Mr N wasn't able to understand, when asked, whether there was a broker or anybody else involved – as he demonstrated his ability to answer the rest of their questions, and he took their warnings into account in the first call by not proceeding with the payment.

Mr N could've also raised this language difficulty with Barclays, or asked a friend for assistance, if he felt he couldn't sufficiently understand what he was being asked. By not doing so, and from listening to the calls, I don't think Barclays had sufficient reason to question Mr N's understanding of what they were asking him. And so, from the answers he provided, I don't think Barclays would've considered Mr N was at risk of financial harm from fraud. Instead, I think it was reasonable for them to believe Mr N's payments were being made for legitimate investment purposes.

I'm aware Mr N has highlighted that Barclays didn't question the final payment that was funded by a loan. But given Barclays would've been reassured Mr N wasn't being scammed due to the previous conversations held, by this point, this type of payment would've been considered in line with his typical account usage and not out of character for him. Because of this, Barclays wouldn't have had reason to suspect Mr N was at risk of financial harm. Nor would they have known – without speaking with Mr N – that he was using the loan for the purpose of investing in crypto.

I have a great deal of sympathy for Mr N and the loss he's suffered. I realise the nature of the scam arising from what Mr N thought was a genuine romantic relationship has been particularly tough. And so, I want to reassure Mr N that I'm not placing blame or responsibility on him for what happened – as, unfortunately, he has been the victim of a cruel scam. But it would only be fair for me to direct Barclays to refund his loss if I thought Barclays was responsible – and I'm not persuaded that this was the case. For the above reasons, I think Barclays has acted fairly and so I'm not going to tell them to do anything further.

### **My final decision**

My final decision is that I do not uphold this complaint.

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

Daniel O'Dell  
**Ombudsman**