

The complaint

Mr F has complained that Barclays Bank UK PLC won't refund the money he lost after falling victim to a scam.

What happened

In 2018, Mr F was cold-called and sold a corporate bond with a property firm. They provided documents setting out a 7% return, backed by a security trustee and a compliance company that was registered with the Financial Conduct Authority (FCA). Mr F was persuaded to invest £10,000. He paid this by bank transfer from his Barclays savings account. He was provided with a bond certificate.

In 2022, Mr F's representatives complained to Barclays. They said he hadn't got the promised returns, and the company had gone into liquidation. They said that Mr F had been the victim of an investment scam, and that Barclays should have prevented this by looking further into the investment adviser and advice, or by warning Mr F about possible scams.

Barclays tried contacting Mr F to raise a scam case, but were unable to discuss the matter with him in any detail. And when he called them, he was unable to pass security.

Mr F came to our service. Our investigator looked into things independently and didn't uphold the complaint. Mr F's representatives appealed, so the complaint'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.

As far as I'm aware, investigations into the property company are ongoing and it's not been concluded whether this was a scam or not – as opposed to, for example, a badly-run firm which fell into financial difficulties and couldn't pay its investors. But I accept it's likely and plausible that this was a scam, so for the purposes of assessing this case fairly I will treat it as such. I also understand that Mr F lost a good deal of money here, for which he has my sympathy. I appreciate why he feels his money should be returned. It's worth keeping in mind that it's the investment companies involved who are primarily responsible for what happened. And this case is about Barclays, rather than them. Having carefully considered everything both sides have said and provided, I can't fairly hold Barclays liable for Mr F's loss – I'll explain why.

It's not in dispute that Mr F authorised the payment involved. So although he didn't intend the money to go to a scammer or a failed investment, under the Payment Services Regulations he is liable for the loss in the first instance. And broadly speaking, Barclays had an obligation to follow his instructions – the starting position in law is that banks are expected to process payments that a customer authorises them to make.

Barclays should have been on the lookout for payments which could be the result of fraud or scams, to help prevent them. But I also accept that a balance must be struck between identifying and responding to potentially fraudulent payments, and ensuring there's minimal disruption to legitimate payments. I've thought carefully about whether Barclays should have done more in Mr F's case.

I can't see that Barclays were made aware of Mr F being vulnerable or being victim to any previous scams before this. The payment was funded from Mr F's savings, and it's not unusual for customers to occasionally make very large payments using their savings. Indeed, that's a rather usual way to use savings, and I can see that Mr F made similar or even larger payments in the period before this incident. This was a singular payment, rather than multiple rapid ones, made to a UK account of an FCA-registered business, authorised by the genuine customer. And there was still a very healthy balance left in the account afterwards – it was not drained by any means. So I find that this payment was not so unusual or out of character that Barclays needed to intervene.

Further, even if Barclays *had* flagged the payment and given Mr F scam warnings or asked further questions about the reasons for the payment, I think it's more likely than not that Mr F would've still gone ahead.

I say this because Mr F was paying an FCA-registered compliance company, which was backing an investment into an established UK company which had been trading for over two years. The returns were not unviable, and Mr F was given an official bond certificate, as well as professional documentation setting out a costed plan and the risks involved, and setting out that the bond was safeguarded by an independent security trustee. At the time, there were no official warnings or investigations against the companies involved. It would not be reasonable to expect Barclays to have investigated the adviser or given investment advice themselves. I can't see that they'd have grounds to do so anyway – the matter would have looked genuine at the time. I do not think Barclays were reasonably on notice that the payment would facilitate fraud, nor could they have reasonably foreseen that Mr F would be scammed. Realistically, it's only with the benefit of time and hindsight that we might reasonably know this was a scam.

So even if Barclays had questioned Mr F, I would not expect them to have blocked the payment. And even if they'd given him general warnings about cold callers, investment risks, and the possibility of scams, I don't see that it was likely to make a difference. Ultimately, Mr F had been given good reason to feel reassured that this was a legitimate investment, and at the time Mr F and Barclays wouldn't reasonably have realised this was a scam.

Next, I've considered whether Barclays should have done more to try to recover Mr F's money. Unfortunately, Barclays were only told this might be a scam over four years after the fact, and the company involved had gone into liquidation. Even then, it looks like Mr F wasn't able to speak with Barclays and help them look into this as a scam case. And given what the administrators have said about the likelihood of funds being available, along with all the time that's passed and the tendency for scammers to move money on as quickly as possible, I don't think Barclays could have reasonably recovered Mr F's money by the time they were told this was an alleged scam.

So while I'm very sorry to hear about what happened to Mr F, I don't think Barclays should be held responsible for his loss. And so I can't fairly tell Barclays to refund Mr F's money in this case.

My final decision

For the reasons I've explained, I don't uphold Mr F's complaint in this particular case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 3 October 2023.

Adam Charles
Ombudsman