

The complaint

Mrs T complains that Barclays Bank UK PLC (Barclays) won't refund the money she lost when she fell victim to an investment scam.

What happened

In early 2021, Mrs T was searching for a cryptocurrency investment and came across a company I'll refer to as N. She thought their website seemed professional, so got in touch – and ultimately decided to invest.

Mrs T sent N £9,000 in April 2021, followed by a further £15,000 between mid-June and early July 2021 (so £24,000 in total). She says N kept asking for more money without giving her anything back, which made her realise they were a scam.

Mrs T complained to Barclays that it hadn't done enough to protect her when she made the payments. It reimbursed half of her loss, plus interest and £100 compensation. But Mrs T is seeking a full refund.

Our investigator didn't recommend further compensation. If Barclays hadn't already refunded 50%, he said he would have awarded less – as he didn't think Barclays was immediately on notice of the fraud risk. And he agreed with a 50% deduction for contributory negligence.

Mrs T has appealed so the case has been passed to me to decide. She says the loss of the remaining funds is affecting her health, so wants to recover the full amount from Barclays.

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.

Having done so, I've decided not to uphold it. I'll explain why.

As mentioned, Barclays has already agreed to treat this as a 'shared blame' scenario. It says it accepts it was at fault – but thinks Mrs T was too. On this basis, it has already refunded half her loss. All that remains for me to consider is whether that deduction is fair - or whether Barclays should accept all, or more, liability for Mrs T's loss.

In the circumstances, I'm satisfied the deduction is fair because:

- A regulatory warning was issued about N which appears to have come up prominently when searching for N online at the time. If Mrs T had done some basic research into N, as I would reasonably expect before investing significantly with a company, she would likely have come across this warning – so would have been on notice they were probably operating illicitly.

- Mrs T called Barclays about the investment in May 2021. She was concerned N were asking for records such as bank statements to authorise her withdrawal request. During the call, she acknowledged she had seen reviews branding N a scam, and warning not to trust them, prior to investing. That shows she was aware of some warning signs the company might be a scam when she made these payments.
- During the call, Barclays told Mrs T it had concerns N could be a scam. It offered to raise a recall request for the funds. Or it said she could contact Citizen's Advice or Trading Standards for more information about the company before deciding what to do. Mrs T said she would get advice – but it doesn't appear she did. She went on to send a further £15,000 to N despite being warned by Barclays about its concerns and despite professing her own doubts about their legitimacy.

I'm sorry to hear the difficulty Mrs T is experiencing due to the outstanding loss. That in itself doesn't mean it would be fair to expect Barclays to accept full liability for what has happened. Based on the concerns Mrs T had and the warning signs she overlooked, I don't think it would be fair to expect Barclays to accept more than 50% liability.

I also agree with the investigator that Barclays has likely compensated Mrs T beyond what we would expect. It has taken a similar approach to the Lending Standards Board's Contingent Reimbursement Model code. But the code doesn't actually apply here as it doesn't apply to international payments – which these were. So, as Mrs T authorised the payments, in line with the relevant regulations (the Payment Services Regulations 2017), she is presumed liable in the first instance.

We do expect banks to have measures in place to monitor for, and respond to, indications its customers might be at risk of financial harm from fraud. If we found Barclays had failed to identify and appropriately respond to a fraud risk, and that doing so would have prevented Mrs T's loss, we might consider it reasonable to hold it liable. But we would also consider whether Mrs T should share liability.

Here, it's unclear Barclays ought to have been on notice Mrs T was at risk initially. While I note there was an earlier payment which Mrs T has reported as part of the scam which appears to have bounced back, it doesn't look like Barclays blocked this. Nor do I think any link between that payment, and the later scam payments, would have been apparent. The bounced payment went to a different, legitimate recipient. And there was a gap between this and the first successful scam payment.

There is probably a better case for thinking Barclays ought to have been concerned about the second successful scam payment. It was the second payment to the same new recipient that day, being sent internationally (which wasn't in keeping with Mrs T's normal account activity) and it caused Mrs T to go overdrawn.

If Barclays had responded by questioning Mrs T about the payment, I think she would have been upfront about what she was doing. I think there were enough warnings signs about N that Barclays ought to have realised they were likely a scam. Explaining this to Mrs T may well have prevented her from proceeding. But, as explained, I also her negligence contributed to her loss such that it would be fair to expect her to share liability.

It's also unlikely Barclays would have been able to recover the first scam payment, even if it had acted sooner – as when it tried, the recipient bank didn't respond.

So, in refunding half of Mrs T's full loss, with interest to compensate her for the loss of use of the funds, Barclays has likely paid more than we would have awarded (or at least no less). It also paid her £100 compensation, which I'm satisfied is a fair reflection of any unnecessary upset caused by any failings in how Barclays considered her fraud claim.

Overall, while I appreciate Mrs T's disappointment, I'm not persuaded it would be fair to direct Barclays to do anything more to put things right.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 21 December 2023.

Rachel Loughlin
Ombudsman