

The complaint

Miss B, who is represented by a CMC, complains Barclays Bank UK PLC didn't do enough to protect her from an investment scam.

What happened

Miss B has a current account and a savings account with Barclays.

Miss B says that she saved a lot of money because she couldn't travel during the pandemic – she used to travel extensively, and that she decided to invest that money in cryptocurrency. She says she spoke to a third party who told her that she'd need to set up a cryptocurrency wallet to invest, and that she'd make a significant return. Miss B says the third party – who helped her set up the wallet – turned out to be a scammer.

Between 19 January 2021 and 9 March 2021 Miss B sent approximately £11,500 to the wallet she'd set up with the help of the third party. She then called Barclays to talk about the mechanics of investing a further £26,000 – including money from a member of her family. Barclays says that it warned Miss B that the investment might be a scam during that call. Miss B says Barclays' warning wasn't strong enough and that she went ahead with her further investment. Shortly after doing so, Miss B says she realised she'd been scammed.

Miss B contacted Barclays on 30 March 2021 to say that she'd lost £26,000 in an investment scam because Barclays hadn't warned her properly. Barclays investigated and said that the £26,000 had been transferred to a wallet in her name, so she hadn't incurred a loss until she'd transferred the funds out of the wallet. So, it didn't think it had done anything wrong.

Miss B complained to Barclays again in October 2022 – this time represented by a CMC – saying that Barclays hadn't done enough to protect her from falling victim to an investment scam and that she'd lost £37,565.00 as a result. Barclays investigated Miss B's complaint and said that it had warned her she might be scammed. More importantly, it said that all it had done was help her transfer money into a cryptocurrency wallet in her name, and she hadn't made a loss until she subsequently transferred the money out of that wallet. Barclays said Miss B should, in the circumstances, complain to the wallet provider. Miss B was unhappy with Barclays' response and so complained to us.

One of our investigators looked into Miss B's complaint and said that they didn't think it would have made a difference if Barclays had given a better warning than the one it had given as Miss B hadn't taken Barclays' advice on board in any event. Our investigator said that Miss B had gone ahead and sent an additional £26,000 to the scammer without attempting to withdraw the profit she said she'd made so far – as Barclays had recommended – to see if she was dealing with a legitimate company. Miss B had also ignored her financial advisor who had warned her that they'd seen lots of people fall victim to cryptocurrency investment scam. So, they didn't uphold Miss B's complaint.

Miss B was unhappy with our investigator's recommendation, saying that Barclays should have known this was a scam – particularly given that the FCA had warned about the scammer in December 2020, something Barclays failed to spot – and should have given a

much stronger warning and / or invoked the banking protocol. Miss B also said that she'd contacted the scammer after speaking to Barclays and had been able to withdraw the profit she'd made to date and that this had given her confidence that she wasn't dealing with a scammer. Our investigator asked for evidence that Miss B had made a successful withdrawal, saying that without this additional evidence it wouldn't be fair to uphold her complaint. Miss B couldn't obtain the additional evidence our investigator had requested – despite attempting to contact the wallet provider on several occasions – and asked for her complaint to be referred to an ombudsman. So, it was passed to me for a 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.

Miss B called Barclays on 9 March 2021, and, during that call, there was a discussion about whether the payments she'd been making and wanted to make were legitimate or a scam. I've listened to a copy of that call. Before saying what I think of that call, I think it's worth mentioning that this wasn't the first time that Miss C had spoken to Barclays about the cryptocurrency she believed she was investing in. I can see, for example, that she was transferred to Barclays' fraud department on 12 February 2021 as its systems had identified the fact that she was trying to buy cryptocurrency and that she was told to visit a branch. I can also see that she visited a branch the following day and explained that she was using the money she'd not spent the year before going on holiday to invest in cryptocurrency, that she was aware of the risks involved and that she'd set herself an upper limit on what she was willing to invest. The records I've seen don't say what was discussed in detail, and whether scams were mentioned. But I would have expected that scams were discussed given that there was considerable awareness of scams involving cryptocurrency by then. More importantly, I agree with our investigator that the key issue in this complaint is whether Barclays could and should have done more during the call on 9 March 2021.

Miss B called Barclays on 9 March 2021 because she wanted to invest another £26,000 cryptocurrency and wanted to talk about the mechanics of doing so. For example, what her daily transfer limits were, whether she'd be able to use money a member of her family had transferred into her account and the best way to make the payment. Miss B wasn't calling Barclays because it had blocked a payment she'd tried to make. It was a general query. The agent Miss B spoke to was friendly and at times the conversation moved onto general chat but given that Miss B was speaking to the banking relationship team I don't think this was out of place or unprofessional. More importantly, as Miss B explained in more detail what she'd been doing, including how much profit she'd been told she'd made, how much profit she'd been told to expect and whether she'd been able to withdraw any of that profit, I can see that the agent to whom she was speaking began to ask questions and to make sure Miss B wasn't falling victim to a scam. At one stage in the call, for example, when Miss B said she'd managed to withdraw some of the profit she'd made, the agent questioned her further and checked her statements and pointed out that she'd had an overpayment to the wallet provider returned, not profit. Miss B says "good point" several times during the call and that it's good that the agent is making her think. By the end of the call Miss B sounds less confident that she's making payments to a genuine investment, says her financial advisor had warned her that he'd seen lots of people lose money to cryptocurrency scams who had similar experiences to Miss B and that she'll speak to the third party she's dealing with and make sure she's able to successfully withdraw the profit she'd made to date before investing further.

Miss B's representative said, after we'd asked, that she had, in fact, managed to withdraw the profit she'd made. If true, that means she would have managed to withdraw approximately £6,000. That would be a significant amount to get back from a scammer and

our investigator asked Miss B's representative for evidence that she'd managed to do so, not least because they'd not mentioned the fact that she'd managed to make a withdrawal after the call in their earlier submissions.

Miss B has tried to contact the wallet provider several times for evidence that she'd managed to withdraw the profit she'd been told she'd made, without success. Unfortunately, given that we have to decide complaints based on the evidence we're sent, I agree with our investigator that without evidence of that withdrawal it wouldn't be fair to say Barclays should be liable. That's because I agree, based on the evidence that we have, that it wouldn't have made a difference if Barclays had given a better warning than the one it gave, as Miss B didn't take Barclays' advice on board or that of her financial advisor. In other words, I agree that she would have gone ahead in any event. I agree too that Barclays' fraud department – who the agent spoke to whilst Miss B was on hold – could have done a better job as the FCA had issued a warning in relation to the third-party Miss B was dealing with in December 2020. The person who the agent spoke to in the fraud department said they'd never heard of the third party – although they did agree based on the negative reviews that the agent had found that there was a good chance Miss B had been scammed. I note that Miss B had seen the negative reviews too, and went ahead nevertheless. In short, for the reasons I've given, I agree that this is a complaint that I ought not to uphold.

My final decision

My final decision is that I'm not upholding this complaint.

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

Nicolas Atkinson
Ombudsman