

## **The complaint**

Miss B complains that Barclays Bank UK PLC (“Barclays”) have unfairly refused to refund over £79,000 she lost as part of an investment scam.

## **What happened**

The details of this complaint are well known to both parties, so I will not repeat everything again here. In summary, Miss B transferred over £6,800 to Cointix.com using her debit card over nine separate transactions. She subsequently transferred over £72,000 to Xshop OU via bank transfer over 10 separate transactions, of which she had taken out several loans to fund. These payments were made as a result of her interactions with the merchant “InvestXE” who she thought was investing with but turned out to be a scam.

Miss B subsequently discovered she had been scammed after she refused to place any further investments and was unable to withdraw her money as her trading platform showed that all her funds had been lost.

Barclays refused to refund the money Miss B had lost as it said she had authorised the transactions and also said she was happy to proceed with them after they intervened and had provided scam warnings.

Our investigator upheld the complaint. She acknowledged that Barclays had intervened in some of the scam payments Miss B was attempting to make, but she didn’t think they ought to have accepted her explanations at face value given the unusual patterns of spending, as well as the fact that three loans of £10,000 had recently been deposited in to her account. The investigator thought that Barclays could have invoked the Banking Protocol and asked the police to attend the branch, which would have likely uncovered the scam.

However, she thought that Miss B was partly responsible for the loss as she failed to question why she was being told to lie to her bank about the reason for the payments. As a result, the investigator thought that Barclays should only refund 50% of the payments starting from the £20,000 payment Miss B made on 5 August 2021.

Barclays accepted the investigator’s proposals but said that Miss B had also received three credits from the scammer, which it proposed to deduct 50% from the money to be refunded. Our investigator thought it was fair for Barclays to deduct 50% of any credits Miss B had received from the scammers and considered its offer to be fair.

Miss B disagreed as she didn’t think her settlement should be reduced by 50%. Because she didn’t agree, the matter has been escalated to me to determine.

## **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 agree with the conclusions reached by the investigator as I consider

Barclays' settlement offer to be fair. I'll explain why.

- I appreciate that Miss B considers Barclays should refund all the scam payments she made from 12 May 2021 onwards. However, I'm satisfied it's fair and reasonable for Barclays to provide a refund from the £20,000 payment Miss B made on 5 August 2021, as this is the point where it ought reasonably to have invoked the banking protocol and contacted the police. I acknowledge that Miss B had made payments in branch prior to 5 August as well, but the amount she was attempting to pay before were not of large or significant amounts, and there was little by way of unusual activity on her account at the time. Barclays had also warned Miss B that she could be being scammed at this point, but she provided reassurances and was happy to proceed.
- So, I'm not persuaded Barclays can fairly be held liable for the payments Miss B made before 5 August 2021 or that there was enough cause to invoke the Banking Protocol and contact the police before this point. However, by the time she came to make the £20,000 transfer, she had only given vague explanations for what the money was for and it is clear from Barclays' system notes that it was concerned she was being scammed. So, this is the point Barclays ought to have contacted the police to come and talk to Miss B in line with the Banking Protocol, but it failed to do so. If they had, I think it's likely Miss B would have told the police what she was doing, and the scam would have probably unraveled. As a result, I'm satisfied it is fair for the bank to be held liable for the scam payments Miss B made from this point onwards.
- I appreciate that Miss B disagrees with the investigator's recommendation for Barclays to only refund 50% of the payments she made as a result of her own contributory negligence. But I'm satisfied that this reduction in settlement is fair and reasonable in the circumstances, as I think Miss B's actions mean that she should share responsibility for the loss she has sustained.
- When Miss B was questioned in branch about the £20,000 payment she was making, she told Barclays it was for financial services and educational purposes, as the scammer had told her not to tell the bank the real reason for the payment (i.e. for investment). She had also been told by the scammer to input false information into her loan applications with regards to the reason behind the borrowing, which she did. However, being told to lie to financial institutions ought reasonably to have alerted Miss B to the fact that something wasn't right, as a legitimate investment firm would not ask its customers to do this as it could, in some instances, even amount to fraud. Therefore, I think Miss B ought reasonably to have suspected that she was at risk of financial harm and should have carried out further checks on the broker, but she failed to do so. As a result, I'm satisfied that her own negligence has contributed to her loss, and that a 50% deduction is a fair in the circumstances.
- Barclays has since agreed to refund 50% of the payments Miss B made from her account from the £20,000 payment onwards, but said that they would also look to deduct 50% of the credits Miss B received into her account from the scammer. Given this was money that was paid back to Miss B and would've reduced her overall loss, I'm satisfied Barclays' proposal to deduct 50% of the credits received is fair.
- Barclays has also said that it would use £14,546.90 of Miss B's settlement to wipe the remainder of the £15,000 loan she had taken out with it. I understand that Miss B has raised a separate complaint about this loan, as she thinks that Barclays lent her the money irresponsibly. So, I will not be commenting on whether Barclays was right to lend the money within this decision, or whether it is entitled to charge interest, as this will form part of the separate complaint being considered by this service.

- However, if there is capital outstanding on the loan Miss B has taken out with Barclays which is still to be paid, I do not think it would be unfair for Barclays to use part of Miss B's settlement to offset any debt it is owed, as this is money Miss B would eventually have to pay back in any event. Whether it chooses to refund the entirety of the money to Miss B or whether it chooses to apply part of it to offset her debt will be a decision to be made by Barclays at its own discretion. But I'm satisfied it would be entitled to apply part of Miss B's redress to offset an outstanding debt if it so chooses.

I appreciate this will not be the full outcome Miss B was hoping for, and I'm sorry to hear she has been the victim of such a cruel scam, as well as the impact this has had on her. But in the circumstances I'm satisfied that the offer made by Barclays to settle her complaint is fair and reasonable in all the circumstances.

### **My final decision**

For the reasons given above, I uphold this complaint and direct Barclays Bank UK PLC to:

- Refund the payments Miss B made to the scammers from 5 August 2021 onwards, less 50% of any credits she received from the scammers, along with a 50% deduction for contributory negligence on this total loss; and
- Pay 8% simple interest per year on this sum from the date of loss to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 7 October 2022.

Jack Ferris  
**Ombudsman**