

The complaint

Mr K complains that Barclays Bank UK PLC (Barclays) is refusing to refund him the amount he tells us he lost as the result of a scam.

What happened

When Mr K first brought his complaint to us, he said that in December 2022 he was browsing Snapchat when he came across a personal profile (X) that was promoting an investment in Exodus.

Mr K said he had been friends with X on Snapchat for around a year but had not met them in person. Mr K said he had not done any investing prior to this.

Mr K said he followed a link provided by X to the Exodus website and everything appeared to be legitimate. Exodus also had good online reviews. Mr K said he messaged X directly and was provided a phone number. X then explained the investment process by phone. X explained he didn't work for Exodus but had been using Exodus with success and was therefore promoting it.

Comfortable that the investment opportunity was genuine Mr K followed a link provided by X to setup an account on the Exodus platform. Mr K could see his account and wallet ID instantly. Mr K says he was not required to provide any form of ID which he didn't question as he had not previously made any investments.

Mr K said that in March 2023 he messaged X as he was ready to make an investment. At this point X recommended Mr K open an account with the cryptocurrency exchange Mercury which would be required to make payments and requested he setup an account.

Mr K started to make payments as instructed by X and in early April 2023 saw a story on X's social media stating that Mercury's exchange rate had dropped, and any investors should switch to Moonpay. Mr K told us he setup an account with Moonpay at this point but didn't use it to make any payments until the end of April when he saw an improvement in market conditions.

Mr K says his investment had reached a level where he was happy with the profit he had made. He was told by X he would have to pay a withdrawal fee first which he did but still he did not receive the withdrawal.

Mr K contacted Exodus who told him his account had been emptied. At this stage Mr K realised he had fallen victim to a scam.

Mr K made the following payments in relation to this scam:

<u>Date</u>	<u>Payee</u>	<u>Payment Method</u>	<u>Amount</u>
13 March 2023	mercuryo.io	Debit Card	£1,000.00
17 March 2023	mercuryo.io	Debit Card	£780.00
29 March 2023	mercuryo.io	Debit Card	£620.64
29 March 2023	mercuryo.io	Debit Card	£780.00

14 April 2023	Moonpay	Debit Card	£375.00
24 April 2023	Moonpay	Debit Card	£2,000.00
24 April 2023	Moonpay	Debit Card	£2,000.00
24 April 2023	Moonpay	Debit Card	£1,000.00
26 April 2023	Moonpay	Debit Card	£700.00

In my provisional decision sent in July 2024 I said:

‘Recovering the payments Mr K made

Mr K made the disputed payments via his debit card. When payments are made by card the only recovery option Barclays has is to request a chargeback.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can’t be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Mr K was dealing with X, which was the person that instigated the scam. But Mr K didn’t make the debit card payments to X directly, he paid separate cryptocurrency exchanges. This is important because Barclays would only have been able to process chargeback claims against the merchants he paid, not another party (such as X).

The service provided by cryptocurrency exchanges would have been to convert or facilitate conversion of Mr K’s payments into cryptocurrency. Therefore, they provided the service that was requested; that being the purchase of the cryptocurrency.

The fact that the cryptocurrency was later transferred elsewhere doesn’t give rise to a valid chargeback claim against the merchants Mr K paid.

Should Barclays have reasonably prevented the payments Mr K made?

It has been accepted that Mr K authorised the payments that were made from his account with Barclays, albeit on X’s instruction. So, the starting point here is that Mr K is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

Considering the values of the payments made in relation to the scam I think it could be argued that Barclays should have intervened when Mr K made the second payment of £2,000 on 24 April 2023, or even sooner.

I say this because Mr K had previously fallen victim to a scam which he had reported to Barclays that involved making payments to the same two cryptocurrency exchanges. However, in this case I don’t think it would be reasonable for me to ask Barclays to make a refund.

The reason I say it wouldn’t be reasonable to ask Barclays to make such a refund is because I don’t have enough to say the circumstances of the scam as describe by Mr K are accurate:

- *Mr K has been unable to evidence conversations between himself and X.*
- *Mr K told us he had not invested prior to the payments listed above which is why he didn't question not having to provide ID, yet he had previously invested in the months before, and even before that using the same cryptocurrency providers.*
- *Mr K told us he opened new accounts with Mercuryo and Moonpay as directed by X, yet I can see he had previously made payments to these accounts in the months before in relation to a previous scam.*
- *Mr K told us this scam was different to the one he had experienced in the weeks before yet both scams originated on social media and used the same cryptocurrency exchanges to make the payments*

When our Investigator spoke to Mr K about the discrepancies in his testimony he said:

- *Mr K said he had X on Snapchat but didn't communicate via this method and there were no messages through Snapchat. This contradicts the original testimony that he initially messaged X via Snapchat*
- *Mr K said he did not consider the previous payments to be investment related, however he was investing just months before and had also made crypto payments before this.*
- *Mr K said he didn't use Mercuryo for the payments he sent in relation to the scam he experienced with X. But he has previously given a detailed testimony about how he used Mercuryo in relation to this scam, has complained about those payments, and those payments show on his statements.*
- *Mr K said the difference between the two scams was that the communication in relation to the second scam was mostly done by phone. I think the fact that Mr K tells us both scams initiated via social media and used the same cryptocurrency exchanges make the two very similar and that the similarities should have caused Mr K to have concerns, especially as he was aware he had previously been scammed when he started to make the above payments.*

Overall, as I've stated above, I don't have enough to say the circumstances Mr K has explained are accurate as he has provided two different versions of what happened that appear to contradict each other. In any event, I think Mr K should have taken more care before making the payments considered in this complaint as he had fallen victim to a very similar scam just before. I am therefore unable to uphold his complaint.'

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 gave Mr K and Barclays time to respond to my provisional decision. Mr K responded saying that in a previous case he brought to our service we also told him he did not have enough evidence even though he had more information.

Mr K asked how he was supposed to get evidence if the communication between himself and X was all via phone calls.

As a service we are only able to consider the evidence that is presented to us from both parties of the complaint. While it is unfortunate Mr K is unable to provide more evidence this does not mean the outcome of his complaint will automatically fall in his favour.

As I explained in my provisional decision, I overall don't have enough to say the circumstances Mr K has explained are accurate as he has provided two different versions of

what happened that appear to contradict each other. In any event, I think Mr K should have taken more care before making the payments considered in this complaint as he had fallen victim to a very similar scam just before.

Mr K has not provided any new information in response to my provisional decision that has changed my mind, so I am still unable to uphold his complaint.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 27 September 2024.

Terry Woodham
Ombudsman