

## **The complaint**

Mr B complains that Barclays Bank UK PLC won't reimburse him for the money he lost when he fell victim to a scam.

## **What happened**

Mr B is represented in this complaint by a solicitor, for simplicity I will refer to Mr B throughout this decision, even when referencing what his representative has said on his behalf.

Mr B was browsing social media and saw an advert for a cryptocurrency investment platform which I'll call 'R' – he registered his interest and was contacted by someone who said they were an 'authorised trader' and that they could help him invest. He says they promised impressive returns and that he saw testimonials on R's website, and reviews on an independent website, which convinced him it was a legitimate opportunity. Unfortunately, and unknown to him at the time, Mr B was actually talking to scammers.

Mr B opened a trading account with the platform and made an initial payment to it from a bank account he held with another bank. He saw this money appear in his account with R, but had been charged various fees, so the scammers told him to open an account with a cryptocurrency exchange (which I'll call 'B') and to pay money into that account and then send it on to the trading platform. Mr B says he saw trades being carried out on his behalf, making reasonable profits, and was able to make some small withdrawals. And in total he made payments totalling over £500,000 to his account with B between 12 May and 2 July 2021. And then passed these funds on from his account with B to the scammers.

But when Mr B he said he wanted to withdraw his profits, and was unable to do so, he realised he had been the victim of a scam. Mr B's representatives ultimately contacted Barclays to tell it what had happened. But Barclays said it did not think it should be held responsible for Mr B's loss, it said the payments were not unusual enough to be flagged as suspicious by its systems, and that the payments had been made to an account in Mr B's name at B, before being passed on to the scammers. So, Barclays felt that the loss had occurred from Mr B's account with B, not from his Barclays account.

Mr B was unhappy with Barclays's response and so referred the complaint to our service.

One of our Investigators looked into what had happened, and felt that Barclays should have stepped in to question Mr B about the sixth payment made – which was for £30,000 on 25 May 2021. They felt that, if Barclays had done so, then the scam would have been uncovered and most of Mr B's loss could have been prevented. However, the Investigator felt that Mr B should also bear some responsibility for what had happened as they did not consider he had done reasonable checks to ensure that R was legitimate before making such large payments to it.

So, overall, the Investigator recommended that Barclays refund 50% of the disputed payments from the sixth payment onwards, plus interest.

Mr B accepted the Investigator's findings, Barclays did not. It maintains that the payments were not unusual until at least the 19<sup>th</sup> payment, which was for £50,000. But it also says that even if it had intervened then it does not believe it would have been able to prevent Mr B from making further payments to the scam, given the returns he had been promised by the scammers. Barclays also maintained that there had been no loss when the payments were made from Mr B's Barclays account, it says the loss only occurred when the funds were moved on from B.

As no agreement could be reached, this case has been 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.

Having done so I've reached the same conclusion as our Investigator, and for the same reasons.

It's not disputed that Mr B authorised the payments that are the subject of this complaint. So as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Mr B is responsible for them. That remains the case even though Mr B was the unfortunate victim of a scam.

Because of this, Mr B is not automatically entitled to a refund. But the regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions, and trying to prevent customers falling victims to scams.

Taking the above into consideration, I need to decide whether Barclays acted fairly and reasonably in its dealings with Mr B, or whether it should have done more than it did.

Mr B's account was one he used regularly for day-to-day expenses, so there was a significant transaction history for Barclays to compare any new payments to. And Mr B did, on occasion, make high value payments and transfers from his account. I also acknowledge that the payments in dispute here were made to an account with B in Mr B's own name, and so would have appeared less risky overall to Barclays. However, just because a payment is to an account in the consumer's own name that does not mean it bears no risk at all, and I would still expect Barclays to keep an eye out for particularly high payments or those that bore other hallmarks of potential fraud, even if those payments were made to another account belonging to their customer.

I say this because this kind of payment journey – where payments are made from an account with one bank, to accounts in the same consumer's name at other banks, e-money providers, or cryptocurrency exchanges and then on to scammers – is increasingly a feature of this kind of investment scam. And I would expect Barclays to have an awareness of how these scams operate and be aware of what it should be looking out for to help protect its customers.

The first five payments made by Mr B were for relatively low amounts given how the Barclays account usually operated – between £50 and £10,000 – and so I don't think there was necessarily anything about those payments that ought to have suggested to Barclays that Mr B was at risk of financial harm. But I agree with our Investigator that the next payment, which was for £30,000, should have flagged as potentially suspicious to Barclays,

despite the fact that the account it was being paid into was in Mr B's name, and Mr B had previously made higher payments from his account.

I say this because a pattern was starting to emerge, of payments of increasing value to a cryptocurrency exchange that was a relatively new payee. And £30,000 is not an insignificant amount, even though Mr B had made higher payments previously, it still was not a regular occurrence for him, he had made only one payment higher than this in the previous year. So, given the high value of this payment, the risk that allowing such a high payment to go through could present, and that what was happening with Mr B's account did have some of the hallmarks of an investment scam, I think Barclays should have contacted Mr B directly to ask him some questions before allowing this payment to go through, despite the fact that the payment was going to Mr B's own account with B.

Had Barclays done this, then I think it is more likely than not that the scam would have been uncovered. Mr B doesn't appear to have been given a cover story to use by the scammer, so I think that if Barclays had asked what the payments were for then he would have been open and honest. And what Mr B would likely have told Barclays about what he was doing should have rung alarm bells for Barclays, given that these types of investment scam are becoming increasingly common. Barclays could then have explained the risks Mr B was exposing himself to, and I consider it likely that the spell of the scam would have been broken, particularly as by the time of this sixth payment a warning had been added to the Financial Conduct Authority's website specifically relating to R. So, I think Barclays could have prevented the losses Mr B incurred from the third payment onwards.

I note that Barclays did intervene on some of the later payments – by asking some questions about one of the £50,000 payments, and when Mr B made the largest payment (of over £117,000) in branch. But the evidence I've seen has not demonstrated that those interventions went far enough to provide a relevant, tailored warning about what Mr B was doing.

But that's not the end of the story here. I've also considered whether Mr B could've done more to protect himself and whether he should therefore reasonably share responsibility for some of his losses. And I think he should. I say that because it appears he did only limited research into the trading platform. I can see there were numerous negative reviews about R before Mr B started to make payments to it. And I can see from Mr B's bank statements that he does appear to have also been investing in other, legitimate investment schemes, so he does appear to have been at least somewhat experienced in investing. So, I think it would've been reasonable for him to see that the profits promised to him – of 30% - were likely too good to be true. For these reasons, I consider it's reasonable that Mr B be responsible for 50% of his losses.

I've also thought about whether Barclays could have done more to recover the funds after Mr B reported the fraud. But given that the funds were moved onto an account in Mr B's own name with B, and were then converted to cryptocurrency and sent to the scammers, I'm satisfied that Barclays could not have done more to recover those funds.

So, in summary, I consider when Mr B made the sixth payment to the scam (which was for £30,000 on 25 May 2021) Barclays could have done more to protect him from the risk of financial harm. Had Barclays contacted Mr B directly and asked some open questions about what was happening, I'm persuaded it is more likely than not the scam would have come to light, and Mr B wouldn't have lost out on the funds he then went on to transfer. I do though consider that Mr B should also share responsibility for his loss here.

So, I consider it fair and reasonable for Barclays to refund 50% of the payments made from the sixth payment onwards, along with interest at our standard compensatory rate of 8% as Mr B has been deprived of the use of these funds.

### **Putting things right**

To resolve this complaint Barclays should:

- Refund 50% of the payments made to the scam from 25 May 2021 onwards (inclusive) minus the amount Mr B was able to withdraw from the scheme on 22 June 2021.
- Pay 8% simple interest per annum on this amount, calculated from the date of each payment until this complaint is settled.

### **My final decision**

I uphold this complaint. Barclays Bank UK PLC should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 March 2024.

Sophie Mitchell  
**Ombudsman**