

The complaint

Mr M is unhappy that Barclays Bank UK PLC won't reimburse money he lost to a scam.

What happened

The background to this complaint is well known to both parties, so I won't repeat everything here. In summary, Mr M has explained that between April and August 2022 he made payments from his Barclays account to buy cryptocurrency which he ultimately lost to an investment scam.

Date	Type of Transaction	Amount
11 April 2022	Card payment to L	£500
11 April 2022	Card payment to L	£500
3 May 2022	Faster Payment to L	£2,000
4 May 2022	Card payment to L	£500
4 May 2022	Card payment to L	£500
5 May 2022	Card payment to L	£50
9 May 2022	Card payment to L	£170
1 July 2022	Faster Payment to L	£1,400
1 July 2022	Faster Payment to L	£2,000
4 July 2022	Card payment to L	£350
25 July 2022	Faster Payment to L	£3,075
5 August 2022	Faster Payment to L	£2,950
8 August 2022	Card payment to L	£120
9 August 2022	Faster Payment to L	£2,600
16 August 2022	Faster Payment to L	£2,600

Mr M was contacted on his mobile phone by a broker (the scammer) who advised she worked for an investment company I will refer to as R. The scammer advised she had worked for R for several years and had made lots of money through cryptocurrency. Mr M was looking for an investment opportunity and recognised the scammer from another investment group he had been on.

The scammer advised Mr M to open an account on its cryptocurrency platform. She also advised him to open an account with a legitimate cryptocurrency firm who I will refer to as L. Believing it was a genuine investment he started to invest. From L Mr M's funds were converted into cryptocurrency and sent to other cryptocurrency wallets controlled by the fraudsters. When Mr M wanted to withdraw his funds, he was told he needed to pay withdrawal fees. Mr M made a few more payments and then started to have problems getting through to the scammer. It was at this point he realised he had been scammed.

Mr M raised a complaint with Barclays in July 2023. Barclays didn't think it had done anything wrong by allowing the payments to go through. So, Mr M bought his complaint to our service.

Our investigator explained that Barclays had discussed several of the payments with Mr M before releasing them. The investigator explained that Mr M hadn't provided accurate answers during these discussions, so Barclays wasn't in a position to identify Mr M was at risk of being scammed. Mr M replied to say he thought he should have been directed to visit the branch before the payments were released and if Barclays had done this, the scam could have been prevented. As Mr M didn't agree with the outcome his complaint has been passed to me for review and 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.

I'm very sorry to learn about what happened to Mr M. There's no dispute that he's been the victim of a scam, and so I can understand why he would think he should receive a refund of the money he lost in the scam. But I don't think that I can fairly say that Barclays should refund the money Mr M lost. I'll explain why.

In broad terms, the starting position in law is that a bank is expected to process payments and withdrawals that a customer authorises it to make. It isn't disputed that Mr M authorised the payments from his Barclays account. Therefore, under the Payment Services Regulations 2017 and the terms of his account, Barclays is expected to process Mr M's payments and he is presumed liable for the loss in the first instance.

But in some circumstances, it might be appropriate for Barclays to take a closer look at the circumstances of the payments – for example, if it ought to be alert to a fraud risk, because the transaction is unusual, or looks out of character or suspicious. And if so, it should intervene, for example, by contacting the customer directly, before releasing the payments. This is to help protect customers from the possibility of financial harm from fraud. But I'd expect any intervention to be proportionate to the circumstances of the payment.

Barclays have told us Mr M was prompted to select the reason he was making the payments, and out of several options to choose from, he selected that the payments were going towards investments. Based on this selection, Barclays said it showed him an online warning about investment and cryptocurrency scams. In this case, Barclays also called Mr M on multiple occasions about payments he was making. I've carefully listened to these calls and Barclays explained to Mr M that, due to the prevalence of cryptocurrency scams, they needed to carry out further checks – including asking him questions before releasing the payments. And I think Barclays asked Mr M appropriate questions to ascertain the purpose of the payments and to establish whether there was a risk of a scam. In response to the questions Barclays asked, Mr M confirmed:

- He'd researched the cryptocurrency firm he was dealing with online to verify it wasn't a scam. And he was satisfied he'd carried out enough checks on the company he was sending the payments to. He also explained he'd used the platform before and had invested previously. His cousin also had an account with L. So, he felt quite secure with making the payments.
- Nobody else had access to his cryptocurrency account or knew his account details. Nor was anyone else connected to his device – via remote access software – when the accounts were opened.
- He hadn't been contacted or approached by anyone through text, email or social

media about cryptocurrency investments before he opened the account or since opening the account.

- There wasn't a middleman or broker involved with the cryptocurrency investment and there wasn't anyone advising him on how much to spend. And he hadn't been asked to send money for time sensitive reasons (so he wasn't being rushed). Nor had he taken out a loan to make the investment, clicked on a social media advert or been asked to make the payment on behalf of someone else. He also hadn't been given a script from someone to use when speaking with Barclays.
- He understood the risks associated with cryptocurrency and wanted to take the risk with his money. So, he asked for Barclays to release the payments.

There's a balance to be struck between identifying, and proportionately intervening in, payments that could potentially be fraudulent, and minimising disruption to legitimate payments (allowing customers ready access to their funds). It's possible that Barclays could have gone a little further in the calls by explaining more of the common features associated with cryptocurrency scams, however I wouldn't have expected it to interrogate Mr M. And I also find that the questions it did ask and the warnings it gave were proportionate responses to the answers Mr M provided. So, on the basis of what Mr M told it, I think it was reasonable for Barclays to be reassured that the payments weren't being made in relation to a scam.

Mr M was frustrated with having his payments stopped and being asked questions by Barclays. It's unclear why Mr M didn't tell Barclays about R's involvement. If Mr M had said he had been approached through a messaging service by an individual and R, that they'd sent him a link and guided him on how to create the cryptocurrency account with them and that he was having regular contact with a broker as part of the investment, then I think Barclays could have given more suitable advice and the scam may have been prevented. But I don't think I can hold Barclays responsible for this.

Mr M believes Barclays should have called him before releasing some of the higher value payments that were made and by not doing so they have failed to protect him from financial harm. But Mr M had detailed calls with Barclays, with one of those calls happening in August 2022 when he attempted the payment for £2,950. So, Barclays did what Mr M has suggested, but Mr M didn't disclose that third parties were involved which was the main risk factor. Because of this, Barclays were prevented from taking further action to prevent his loss. Therefore, I think it was reasonable for Barclays to release these payments without carrying out additional checks based on the previous payments that were made and the conversations they'd already had with Mr M. For the same reasons, I don't think that Barclays should have directed him to visit a branch before releasing the payments as he has suggested.

I've also considered that the scam payments were made over a period of four months and how this would have appeared to Barclays. Because the payments were spread out and Barclays carried out several fraud assessment calls, I am satisfied that payments to L would have looked like typical account activity and that the payments being made were genuine. And in response to the questions Barclays had asked Mr M in its attempt to identify whether he was at risk of the financial harm from fraud, he'd reassured them otherwise – by, amongst other things, confirming he'd carried out due diligence on the firm and explaining he understood the risks of cryptocurrency (which he was willing to accept).

In any event, even if Barclays had called Mr M about further payments, I'm not persuaded it would have made a difference. I think it's most likely that Mr M would have answered any further questions in a similar manner as before and requested the payments be released. Because of this, I don't think Barclays is responsible for the loss Mr M has suffered. I also can't see any reason which would suggest compensation is warranted in the circumstances of the complaint as I have not found anything to suggest Barclays have acted incorrectly.

There are industry standards around attempting recovery of funds where a scam is reported. So, I've also thought about whether Barclays could have done more to recover the funds after Mr M reported the fraud.

It's possible to dispute a debit card payment through a process called chargeback, which can sometimes be attempted if something has gone wrong with a debit card purchase, subject to the relevant card scheme's rules. Barclays have confirmed that they didn't attempt a chargeback for the payments Mr M made. But I don't think that any chargeback would have had a reasonable chance of being successful here, even if it had been attempted. This is because Mr M received the service he'd paid for in the purchase of the cryptocurrency.

And I don't think it was ever going to be likely that Barclays would have been able to facilitate recovery for any of the payments after Mr M moved them from his cryptocurrency account on to the scammers (which he did before he notified Barclays he'd been scammed nearly a year later). So, I'm satisfied that there was nothing further Barclays could reasonably have done to recover these payments.

While I do sympathise with Mr M, I don't think Barclays can fairly be held responsible for his loss. And so, I can't fairly tell Barclays to refund Mr M's money in this case.

My final decision

My final decision is that I'm not upholding Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 January 2025.

Aleya Khanom
Ombudsman