

The complaint

Mr M has complained that Barclays Bank UK PLC (“Barclays”) didn’t protect him from falling victim to an investment-related scam, and it hasn’t refunded the money he lost.

What happened

The background of this complaint is already known to both parties, so I won’t repeat all of it here. But I’ll summarise the key points and then focus on explaining the reason for my decision.

Mr M has explained that he sent several large payments from his Barclays account to a cryptocurrency exchange, as part of an alleged investment opportunity. He says the payments amounted to over £250,000 and Barclays didn’t warn him that the payments were being sent to a potential fraudster.

Mr M saw an advert on social media for an alleged investment opportunity and registered his interest. The next day he received a call from an individual (“the scammer”) posing to be a financial advisor, to discuss the opportunity in further detail. Mr M decided to go ahead and invest and opened an account at a cryptocurrency exchange as directed by the scammer. He was also given access to a different platform which allegedly showed his profit and loss.

Mr M says he started by investing small amounts, but when he could see that his investment was making a return he was convinced to deposit more.

The payments Mr M made were as follows:

	Date	Amount
1	25 January 2024	£20
2	25 January 2024	£20
3	5 February 2024	£20
4	5 February 2024	£1,128
5	5 February 2024	£1,128.10
6	5 February 2024	£250
7	7 February 2024	£10
8	8 February 2024	£670
9	28 February 2024	£950
10	28 February 2024	£4,000
11	28 February 2024	£30,000

12	28 February 2024	£6,000
13	29 February 2024	£50,000
14	4 March 2024	£2,950
15	4 March 2024	£4,950
16	5 March 2024	£7,490
17	6 March 2024	£43,000
18	7 March 2024	£49,900
19	8 March 2024	£49,980
Total		£252,466.10

Mr M says he realised he'd been scammed when he was told there was an error on his account and he'd need to pay \$280,000 to rectify it. When he refused the scammer became aggressive.

Mr M reported the scam to Barclays on 4 April 2024, but it explained it wouldn't reimburse him for what he'd lost as the funds had been sent to his own account at the cryptocurrency exchange. So Mr M made a complaint about this

Barclays upheld the complaint from the 11th payment as it said it should've identified that the pattern of payment should've led it to identify the potential scam. It agreed to refund the payments from the 11th onwards, but it reduced the payment by 50% as it said that Mr M's actions amounted to contributory negligence as he didn't carry out a proportionate amount of research before making the payments. Barclays also paid 8% interest on the refund, plus £100 compensation for the delay in handling Mr M's complaint.

Mr M remained unhappy as he thought Barclays should've reimbursed him for all of the payments as it had admitted it was liable for the losses, so he referred the complaint to this service.

Our investigator considered everything and didn't think the complaint should be upheld. He explained that he thought Barclays should've intervened more robustly from the 11th payment, so he thought that the way Barclays had already settled the complaint was fair, and he didn't recommend it should do anything more.

As Mr M didn't accept the investigator's opinion, the case has been passed to me to make 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 sorry to disappoint Mr M but having considered everything I'm afraid I'm not upholding his complaint, broadly for the same reasons as our investigator, which I've set out below.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's not in question whether Mr M authorised these payments from leaving his account. It's accepted

by all parties that Mr M gave the instructions to Barclays and Barclays made the payments in line with those instructions, and in line with the terms and conditions of Mr M's account.

But that doesn't always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won't result in harm.

I should start by explaining that the cryptocurrency exchange that Mr M sent funds to is genuine. So each time Mr M sent funds to credit his account there, they were made available to him and he was able to purchase cryptocurrency as he'd intended to. It seems the scam arose when Mr M transferred the cryptocurrency he'd purchased on to what he thought to be the investment, but that was in fact the scammer. So what's in question is whether Barclays identified, and intervened, when it ought reasonably to have identified the underlying scam that was prompting Mr M to make the payments in the first place. It's certainly not in dispute that Mr M was scammed, but I need to consider whether Barclays met its obligations, and if it didn't, I'll consider how that affected the outcome for Mr M.

I can see that when Mr M made two initial payments on 25 January 2024 Barclays asked him for the reasons for the payments, and he responded that they were for "investment or cryptocurrency". Barclays says he was then shown a written warnings and the payments were then completed in line with Mr M's instructions. All payments were made to the same payee and it doesn't appear that Barclays asked for the purpose of any of the further payments Mr M made to this payee.

The warnings Mr M was shown was the following:

Could this be a scam?

Avoid investment scams by using the FCA ScamSmart look out for their listed warning signs. If the company is genuine, search the FCA website to check it hasn't been impersonated by scammers.

Scammers post adverts online and on social media and can produce fake documents and websites to look like genuine companies.

Is the return rate above market value? If so, be suspicious.

If you're investing in cryptocurrency. there are no protections. If you can't access or control your wallet, this is a scam.

Stop. Challenge. Protect.

Having considered this warning, I think this was a proportionate intervention up to the tenth payment. The warning is clear and unambiguous, and specific to the payment reason that Mr M told Barclays. Having reviewed Mr M's account transactions, the values of payments one to ten weren't particularly high, nor were they out of line with Mr M's usual account behaviour. So I don't think Barclays should've intervened any further than it did – after all, it needs to balance its obligation to protect its customers with not unduly inconveniencing them, and based on the risks it identifies in all of the circumstances.

Although I accept that multiple payments were made on some days, the cumulative value of the payments was still relatively low. And given that Mr M had given the purpose of the payments and acknowledged that he'd read and accepted the warning that Barclays gave him a couple of days before, I think Barclays' intervention was sufficient up to the point of payment ten.

Barclays says its fraud team intervened in all of the payments from the 11th onwards. It has provided notes from its interventions as well as several telephone recordings.

I've listened to the calls provided by Barclays, and whilst I don't intend to fully transcribe them here, in summary, I do think Barclays could've done more to identify and prevent the scam from taking place during those calls.

A call on 6 March 2024 started by Mr M confirming that the transaction he was in the process of making for £43,000 was a genuine instruction made by him. Barclays then asked him to confirm the company name and the purpose of the payment. The agent then asked Mr M how he obtained the bank details to set up this payee, and Mr M confirmed he'd obtained them from the company's app. In response to questions by the agent Mr M then confirmed he hadn't been told what to say during the phone call or to lie to the bank, and that nobody else had access to his cryptocurrency wallet. The agent mentioned scams as general passing comments during the call, but there were no specific scam-related questions asked or cryptocurrency warnings given. Barclays then released the payment.

In another call, on 7 March 2024, there's discussion of the payment Mr M was in the process of making for £49,900. The agent starts by asking who the payment was being made to, and the reason behind it. Mr M explains he was crediting his cryptocurrency account, in order to deal in cryptocurrency. He explains "it's all very above board, I can take money in, and take money out". He later says "it's my money, my account, I just don't understand why you won't release it". As the call continues it's evident that Mr M was becoming increasingly frustrated, but Barclays reiterates that the call was in an attempt to help to keep his account safe. Barclays asks whether anyone has asked Mr M to make the payment, or whether he's received a text message asking him to click on any links, and Mr M confirms neither apply.

Later in the call Mr M explains he has two financial advisers, one of whom had been with his family for over 30 years, and another, with whom he'd recently decided to diversify his investments. He explains "we fully understand the ups and downs, and the best platform I was advised to use was [Company 1] and this is what's happening". Barclays then reads a disclaimer to Mr M, in which it outlines that the transaction has been flagged as suspicious. During this disclaimer Barclays also gives a scripted warning about general scams and the need for Mr M to ensure he was happy with the payments he was making. Mr M confirms he accepts the content of the disclaimer, and Barclays then releases the payment.

Whilst in both calls the agents established that the payments were genuine requests made by Mr M, I don't think they went far enough to probe the purpose of the payments or the story behind them. Although Mr M told Barclays he was using the funds to buy cryptocurrency, I don't think the conversation should've stopped there. After confirming the payments were genuine, Barclays should've asked Mr M more direct and probing questions in an attempt to uncover the story behind them, as well as providing better and more specific scam-related education, relevant to the scenario Mr M was in.

Overall, although I'm satisfied that Barclays did intervene in some way from the 11th payment onwards, I think Barclays is right to accept responsibility for the losses from that point, as its interventions were not robust or effective enough to prevent the scam from happening, or to at least warn to Mr M of the risks he faced.

Mr M has previously questioned why Barclays should only refund him from payment 11 as it has accepted liability; that's because different levels of intervention were required at different times. The initial payments Mr M made weren't unusual or suspicious enough that Barclays ought to have identified them as a risk, but the payments from the 11th onwards were.

With this in mind, Barclays doesn't need to refund the first ten payments to Mr M, as the interventions were proportionate to risks they presented based on everything it knew. But I agree Barclays' offer to refund the payments from the 11th onwards is fair, as this is the point

at which the payments became much larger and took place in more rapid succession, and Barclays could and should have done more to protect Mr M from the financial harm this resulted in.

Is Mr M responsible for any of his losses?

Whilst I understand that Mr M is undoubtedly the victim here, I agree that he should share joint responsibility for the losses he's experienced as a result of this scam.

Although Mr M has explained in great detail the reasons behind why the scam was convincing, I haven't seen that Mr M was at any time able to withdraw any money back from it. And in the warning that he was given for payments one and two he was informed that he could check the Financial Conduct Authority's website, but he says he didn't do this *'because [Company 1] was legitimate and [Company 2] had a very convincing website plus all the daily contact... I was completely hooked on their message.'* Although Mr M is now aware that [Company 1] isn't regulated for this type of cryptocurrency dealing, he could've likely found this out before making the payments if he'd followed the warnings he was given.

In addition, Mr M wasn't entirely honest with the information he told Barclays when it intervened. In the call between Mr M and Barclays on 7 March 2024 he reassured Barclays that he'd taken advice from his financial advisers and they'd made the joint decision to invest in this way. This doesn't appear to be true, as Mr M later told Barclays he'd found the opportunity via social media and contacted the company directly. He also went some way to reassure Barclays that he, and his adviser, were in full control of the decisions they were making, and they understood the risks involved. But had Mr M told Barclays that he'd in fact found the investment opportunity on social media before he made the payments, I'm persuaded Barclays would've been concerned enough to take a different course of action in an attempt to prevent the scam.

With this in mind, my decision is that the settlement already proposed by Barclays, to refund 50% of the payments from the 11th onwards, plus interest, is fair.

I note in recent correspondence Mr M has raised new points against Barclays, as well as against the cryptocurrency exchange. As the investigator explained, Mr M will need to contact both companies first to give them a chance to answer the new allegations, before he refers them to this service.

Recovery of the funds

I've seen that Barclays attempted to recover the funds Mr M lost as soon as it was made aware of the scam. But it received a response that as the receiving bank was an intermediary bank for the cryptocurrency exchange, the funds had already been withdrawn.

As the funds had been made available to Mr M as cryptocurrency, which he was then able to use, I don't think Barclays could've done any more here.

Whilst I may not have addressed each point that Mr M has raised individually, I'd like to reassure Mr M that I've carefully read everything he's said and provided, including the detailed account of why the scam was convincing. But in order to keep my decision concise I've focussed on the points I consider relevant in reaching a fair outcome in the circumstances.

I'm very sorry that Mr M has fallen victim to this scam and I do understand that my decision will be disappointing. But for the reasons I've set out above, I don't require Barclays to do any more than it already has done to put things right.

My final decision

I don't uphold Mr M's complaint against Barclays Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 25 October 2024.

Sam Wade
Ombudsman