

The complaint

Mr C is unhappy that Barclays Bank UK PLC hasn't reimbursed him for all the funds he's lost, after he was the victim of an investment scam.

What happened

Mr C began investing with company 'T' in February 2018. He's explained that T lied to him and convinced him his investment was doing well, so he invested more. He explained that T set up accounts with him for legitimate cryptocurrency firms, 'C', 'I' and 'B', and told him this was to ensure he got the best rates. However he never had access to these accounts and he said the money appeared from these in his account with T, after the payments were made.

In October 2018, Mr C contacted Barclays as he says he discovered T was a scam. He said this was when he tried to withdraw funds, but was prevented from doing so. Barclays raised chargebacks on Mr C's debit card payments, and some were successful – two of those made to I and the single debit card payment to C. The chargebacks for the payments made to T were unsuccessful.

The payments Mr C is disputing are as follows:

Date	Merchant	Payment method	Amount	Refunded?
27 February 2018	T	Debit card	£250	No
1 March 2018	T	Debit card	£2,500	No
1 March 2018	T	Debit card	£2,500	No
2 March 2018	T	Debit card	£5,000	No
2 March 2018	T	Debit card	£5,000	No
2 March 2018	T	Debit card	£5,000	No
5 March 2018	T	Debit card	£5,000	No
7 March 2018	T	Debit card	£1,000	No
30 April 2018	C	Bank Transfer	£2,501	No
30 April 2018	C	Debit card	£50	Yes
2 May 2018	C	Bank Transfer	£8,745	No
3 May 2018	C	Bank Transfer	£12,500	No
21 May 2018	I	Debit card	£2,573.81	Yes
22 May 2018	I	Debit card	£5,146.85	Yes
22 May 2018	I	Debit card	£5,146.85	Yes
12 June 2018	B	Bank transfer	£12,500	No
15 June 2018	B	Bank transfer	£11,700	No
9 August 2018	T	Debit card	£1,000	No
9 August 2018	T	Debit card	£4,000	No
11 December 2018	B	Bank transfer	£3,167.80	No
11 December 2018	B	Bank transfer	£8,225.15	No
11 December 2018	B	Bank transfer	£10,233.51	No

In response to the chargeback, T provided screenshots of Mr C's account with it, supposedly showing the trades he'd made on the account. It showed what it said were all the payments into Mr C's account, which added up to the total Mr C had paid T from his Barclays account, £31,250, plus £5,000 not from his Barclays account. So a total of £36,250 paid in – it didn't show all the above amounts prior to October 2018. T also said Mr C had made withdrawals from his account, a total of £30,479.30. Barclays was able to find £25,479.30 was paid into Mr C's account by T and the remaining £5,000 T showed wasn't sent to the card linked to the Barclays account. So this meant Mr C made a loss of £5,770.70 in total, with £770.70 of this loss from this Barclays account.

Barclays accepted T's explanation and didn't take the matter further. It did however agree to refund the first payment made to I, as it accepted it should've included this payment when it made the chargeback. It said Mr C didn't raise this payment, but it should've spotted it was the same merchant and also a payment made by debit card.

Mr C raised a claim about the bank transfers he made in December 2018, investigated by Barclays in January 2019. But none of these were refunded to him.

Mr C complained that he hadn't received all his funds back and said that Barclays hadn't dealt with his account correctly. He said it shouldn't have allowed the payments to be made and Barclays should've been aware T was fraudulent. Mr C raised some other concerns around the service that he received.

Barclays disagreed with Mr C's complaint about the transactions to T, the remaining transactions to C and all the transactions to B. It said C and B were legitimate companies and so Mr C wasn't entitled to these funds back, as he'd received the cryptocurrency service he'd paid for. And it didn't agree it could take the case against T any further.

Mr C came to our service and our investigator looked into his complaint. He considered Barclays should've contacted Mr C on 1 March, after he'd made the two £2,500 payments to T. And if it had, the scam would've unravelled and Mr C wouldn't have made any further payments to T, including via C and B. So he upheld Mr C's complaint. But he did say the amount Mr C received should be reduced by 20%, to reflect that he'd made further payments in December 2018, after he'd reported T as a scam to Barclays.

Barclays disagreed and asked for an ombudsman to review the case. It said that there was nothing to link the payments made to C and B to the scam with T. So it couldn't agree these should be refunded. And as these were legitimate companies, these payments wouldn't have alerted it to any concerns. It also didn't agree that T was necessarily a scam trader, due to what it had provided in response to the chargeback and the credits to Mr C's account. So the case was passed to me.

I issued a provisional decision on this complaint in early February 2022. My findings were as follows:

I'm satisfied that Barclays has taken appropriate action in relation to the debit card payments on Mr C's account. The chargeback process is governed by set rules and so there are limited situations in which a claim can be successful. I can see Barclays put forward a claim for all the payments made to T and it defended this, with persuasive evidence. So I don't think it was unfair of Barclays to end the chargeback process and re-debit Mr C's account these payments. This is how the process works.

However, I've then considered if Barclays actually should've allowed these payments to go to T in the first instance.

As Barclays is aware, our service considers firms should be following the FSA consultation from June 2012, and building up an updated watch-list of types of scams and potential perpetrators. And our service doesn't consider it unreasonable for each firm's list to be updated within a month of an alert being posted by the FCA or IOSCO. If a payment is then made to a payee on this list, an automatic alert should occur and the payment paused, until further enquiries can be made with the payer.

I've reviewed IOSCO's Investor Alerts Portal and there's a warning about T from April 2017. So this was more than a month before Mr C's first payment in February 2018. The website address included in this warning is who appeared on his statements as the payee. I don't consider it unreasonable to expect Barclays to have spotted this information and updated its internal alerts to include information about T, a payee who had been reported as carrying out regulated activities without permission.

I think Barclays had enough time to have updated its warning list, considering there were ten months between this warning being published and Mr C making his first payment. So Barclays ought to have automatically blocked the payment and questioned Mr C about his understanding of T. And I'm satisfied Mr C thought T was regulated in the UK, based on screenshots he's provided of its website when he did start the charge back process. He understood it was a UK based company, using a UK telephone number.

Mr C didn't have a history of investing and has explained the difficult personal situation he's in, so why he was trying to increase his funds. I don't think he was looking to take the level of risk associated with an unregulated firm at this point in time. I appreciate he did later invest in cryptocurrency and also paid T money after he believed it was a scam. But considering this investment and the money Mr C thought he'd made – and then the desperation at the money he says he lost, I do think his mindset changed over time. So I think it's more likely that if Barclays had discussed this payment with Mr C and suggested he do further research into T's regulatory status, he wouldn't have gone ahead with this particular investment in February 2018.

On that basis, I'm minded to say Barclays should refund the payments Mr C made to T directly. However, as he's received a large amount of this back, this should of course be deducted from what it refunds. I have no reason to believe Mr C didn't receive the £5,000 sent to a different account, so it seems only £770.70 is due back from these transactions.

I've then thought carefully about whether Mr C is due back all of the payments he made to the three legitimate firms. Mr C has explained to us why he can't evidence that the cryptocurrency payments were also part of the scam – the scammer opened the accounts for him and so he never had the details himself. So the only evidence available is his testimony. Barclays has raised concerns around these payments as it says the chargeback process wasn't applicable, due to them being legitimate merchants who did provide the service required. And it has concerns about all these transfers, as we don't have a paper trail showing the cryptocurrency did end up with the scammers.

When Mr C wrote to T in October 2018 he disputed transactions to the value of £92,362.55. But in this letter, Mr C has split this amount into three payments and neither the total amount he's quoted, nor each of the payments, match up with his statements. And this amount doesn't factor in the withdrawals Mr C made from his account with T – over £30,000. So it seems this figure isn't accurate. And it seems he also didn't raise all of these transactions with Barclays at that time.

The first letter Mr C has provided us with, from him to Barclays, only raises a dispute about three payments totalling £10,000. And one of these payments is annotated with 'no payment' and doesn't appear on Mr C's statements. But I can see five days later Barclays raises chargeback requests for nine payments. This claim didn't include any payments to one of the legitimate firms – B, and only £50 to C. I can't see Mr C disputed this with Barclays at the time. The first record from him of the other payments being raised was late December 2018. And by this time Mr C had made three more payments to B totalling over £20,000.

The total amount of the chargeback claim raised in October 2018 was under £32,000. So I can understand why Barclays now has concerns about the transactions to the legitimate cryptocurrency providers. These make up over £60,000 of Mr C's disputed payments, but I've not seen any evidence he attempted to recover these payments until months after the first set. I accept that chargeback was not the right process for these payments, but I can't see they were disputed with Barclays at all in October 2018. And, considering the amount, I would've expected Mr C to raise them at this time, if he had concerns about all the payments he'd made.

In October 2018, Mr C provided evidence to Barclays relating to T and why it was a fraudulent firm. He then provided a second document when T disputed the chargeback. He's explained to us that T then convinced him it could return his funds if he invested more, which is why he sent more money via B in December 2018. But this was weeks after he'd placed the chargeback claim and compiled these two documents. So Mr C had severe concerns around T and knew it wasn't in fact regulated in the UK as it claimed, but he's told us he then transferred it over £20,000 more of his funds. I can also see why this has concerned Barclays and seems inconsistent.

Mr C has also explained to us that he paid funds to C, I and B and these were then moved by the scammer to his account with T. And he saw these amounts appear in his account. But in June 2018, Mr C received a payment of over £12,000 from C. It isn't clear why C would be transferring funds to Mr C, when he's said this account was controlled by the scammer and he understood it was only used to buy currency to then trade with using T, not to keep funds in.

My role is not to comment on the actions Mr C took, but I do have to decide if Barclays has acted fairly in how it has assessed his actions. I accept why it has concerns around the payments made to the legitimate firms. And why it also disagrees it should be providing Mr C a reimbursement for the funds he sent after he reported T as a scam firm.

Based on the evidence I hold, I can't safely say there was a link between T and the payments Mr C made to C and B. And on that basis, even if I accept Barclays should've called Mr C about some of the payments made to C and B – as they were high value and unusual for him – that doesn't mean he should now have them refunded. I can't conclude that any intervention would've stopped these payments, as I can't say they were actually linked to T, so that there was any scam for Barclays to uncover or stop with these calls.

I accept Barclays shouldn't have sent the first payments to T, but I don't agree Barclays should reimburse him any additional payments not made directly to T from his account.

I understand Mr C is dealing with ill health and has to deal with challenges in his daily life that will make this decision even more difficult for him. But I can't fairly uphold his full complaint on the evidence we hold. I invite both him and Barclays to submit

further comments or evidence by the deadline above if they wish to do so. This could include any information from the legitimate cryptocurrency providers.

Barclays responded and accepted my provisional decision. Mr C disagreed and provided some further evidence.

He provided us with emails from May 2018 between him and the account manager he says company T appointed – which discusses his account with C. And he provided further emails between him and this individual from March 2019, discussing his account with B.

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've looked at the email Mr C has provided to confirm the link between the accounts with C and B and company T.

I accept that in his initial submissions to Barclays in October 2018, Mr C provides an email from the same named individual with a T email address. But the emails he's provided to link the payments to C and B with T are from a 'gmail' email address. So even if I was to accept it is the same person, which I accept is likely, this person is no longer emailing Mr C on his T account. We asked Mr C for evidence linking T and these payments in 2021 and again before my provisional decision, but he said he couldn't supply the information asked. Then since the provisional decision he has found some evidence. But I don't agree it does prove there's a link between company T and these payments, as we requested.

If I accept this is the same individual, I don't know why Mr C began contacting him outside of his work account. And I also don't know why Mr C was still contacting him in March 2019. Mr C has told us that the point he asked for his money to be returned to him is when he realised he was the victim of a scam – as his account manager just closed the account. But he reported this to Barclays in October 2018, with a 22-page explanation of why he'd been scammed and said the named individual wasn't a registered broker. And yet he made payments to this person in December 2018. Before again reporting this as a scam in late December 2018. But then the email chain he's provided is from March 2019 and the named individual says:

Regarding your trading account valued at 77 BTC, with an additional deposit to [B] of 3500 GBP will give you access to withdraw all funds from your accounts to your [B] then to Barclays.

So this suggests Mr C's account is still open, with a positive balance and he can still trade on it – and possibly has been trading with this person still.

I don't consider our service does need further information on why Mr C did continue to correspond with the individual after he reported the scam. Or Mr C should get a further opportunity to link T and the payments to C and B. We've given him three opportunities to provide the further information asked for. I don't consider it's appropriate to continue pursuing this line of enquiry further, especially when Mr C told us twice he didn't have the kind of information he then later provided. At this time I consider I do have enough information to decide this case and it is time to do so.

I still can't safely link T to the payments Mr C made to legitimate cryptocurrency firms. And without a clear link, there's still no evidence that these payments were made as part of a scam. While Mr C reported this scam in October 2018, as in my provisional decision, his

reporting of the scam payments isn't what you'd expect. And now Mr C has shown us he was still corresponding with the individual he reported as a scammer about a trading account in March 2019 – five months after he'd reported the scam – and reported this account closed. Due to this I can't confidently say the account with T was the same account as with C and B.

I think it's worth setting out that at this time we know T wasn't regulated to trade in the UK. But that doesn't mean that it was in fact a scam firm. The evidence we hold shows Mr C barely made a loss with his direct investments to T, so while it shouldn't have been trading in the UK – I fully accept that – we don't actually have any confirmation it was a fraudulent or scam firm. With that said, I do still consider he wouldn't have gone ahead with T at the time he did, if Barclays had intervened. But I don't consider Barclays needs to return payments beyond what Mr C made directly to T.

Accepting Mr C's testimony, he only experienced a substantial loss once he began investing with the named individual outside of direct interactions with T. At this time, he was corresponding with the individual on a personal email and sending money to legitimate cryptocurrency firms, not straight to T as before. And he continued to deal with this individual, including sending additional funds, after he reported T as a scam twice. So this brings into question if there is a business link between T and the payments to C and B.

I haven't got the evidence to safely conclude that the payments Mr C made to C and B were linked to T directly. T's response to the chargeback only showed the direct payments and suggested Mr C stopped trading with it in September 2018. And considering the change in behaviour and email address, it seems possible Mr C was then trading outside of T in May and June 2018, and then again in December 2018, when he made all the legitimate cryptocurrency payments. This would explain why he continued to make payments after October 2018 and also was still emailing with the individual after his concerns about T were made. As I set out in my provisional decision, without this clear link I can't safely conclude that Mr C wouldn't have ended up making the legitimate payments anyway.

The further information provided doesn't change my decision that Barclays was right to have some concerns around the testimony Mr C provided and whether or not the legitimate payments were linked to the scam Mr C reported with T. With the further information, it is possible Mr C was taking the risk of dealing with the named individual directly and this is why he continued to make payments and correspond with them after he reported T as a scam. So I still can't conclude that he wouldn't have made the direct payments to the legitimate firms even if Barclays had intervened. On that basis, I don't conclude the new evidence provided does change the fundamental outcome of the provisional decision I reached.

I'm still deciding that Barclays should refund Mr C the difference between what he paid T directly and what he received from it, as it should have informed him about the warning in relation to the regulatory status of this firm. But I'm not directing it to refund him any other payments he made, that he's told us were sent as part of this scam.

As set out in the background, on revisiting the case, I can see Mr C paid £5,000 more into his account with T than previously stated. But this payment was not made from his Barclays account, as it doesn't appear on his statements. So I'm not changing the amount I'm directing Barclays to refund, as it isn't responsible for returning this payment.

Putting things right

Barclays Bank UK PLC should refund Mr C £770.70 – the amount he lost by making payments to T. As he made these payments from his current account, Barclays should add

interest to that sum (less any tax properly deductible) at 8% simple interest per year from the respective dates of loss to the date of refund.

My final decision

For the reasons set out above, I'm partially upholding Mr C's complaint against Barclays Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 24 March 2022.

Amy Osborne
Ombudsman