

The complaint and what happened

Mrs N complains Barclays Bank UK PLC won't reimburse money she lost when she fell victim to a scam. She also complains that as part of that scam, she took out a loan for £50,000 but it didn't do enough checks to ensure it was affordable for her.

The full details of this complaint are well known to both parties, so I won't repeat them here. Instead, I'll recap the key points and focus on giving reasons for my decision:

- Mrs N saw an advert for investing on a social media platform, that was endorsed by a well-known celebrity. She was contacted by an agent working for McoinMarket. She did some research but didn't find much information about them. She was persuaded to invest, with those investments made through Jubiter, a cryptocurrency exchange.
- Between April and July 2019, Mrs N invested around £115,000 with McoinMarket. Some of that money came from savings, and she borrowed £50,000 from Barclays in June 2019. She told Barclays the money was for home improvements.
- Mrs N tried to send a £50,000 payment to the investment. But the payment was suspended by Barclays as it thought it looked suspicious and that she might be being scammed. Mrs N was required to go to branch, where she informed staff the money was being sent to a friend abroad for home improvements. She says she'd been told to say that by the agent so there wouldn't be a delay on the funds reaching it. The £50,000 payment wasn't made, but Mrs N instead sent approximately a further £53,000 in separate, much smaller transactions.
- Mrs N realised she had been the victim of a scam when all of her funds were lost. She raised a chargeback claim through Barclays for transactions which occurred between May and June 2019 for around £57,000, but that was defended. Barclays also said Mrs N had met its lending criteria for the loan.
- Our investigator upheld the complaint in part. Barclays hadn't provided any evidence to show it had carried out a proportionate check to ensure the loan was affordable and sustainable for Mrs N, and our investigator didn't think it was affordable. So she said the capital borrowed should remain payable, but that Barclays should reimburse any interest and charges associated with the loan. The investigator didn't uphold Mrs N's complaint in relation to the transactions, as the requisite evidence wasn't provided to likely succeed at a chargeback claim, and she didn't find the transactions unusual; and when Barclays did intervene, Mrs N gave them a story about the loan funds and continued sending money to the scammer.
- Mrs N accepted the outcome. Barclays hasn't yet responded to the view.

Barclays was informed by our operational contact team that anything that had been upheld would be put on an ombudsman's desk after 25 February 2022. I'm satisfied Barclays has had sufficient opportunity to consider the view and provide any further submissions. It's now appropriate to move this complaint to this final stage.

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 would like to reassure the parties that although I have only set out the key points of this complaint, I have read and considered what's been provided. Having done so, I agree with the conclusions reached by the investigator for the following reasons:

- A chargeback is a voluntary scheme run by card scheme providers – in this case, VISA. It arbitrates on disputes between a customer and a merchant where they haven't been able to resolve matters themselves. The process is subject to the rules of the scheme – which are set by VISA – and there are only limited grounds on which a chargeback can be raised.
- Although Mrs N was dealing with a company called McoinMarket, her payments were sent to Jubiter, a currency exchange. The service provided by it would be to convert Mrs N's money into cryptocurrency – I understand that service was provided and so there wouldn't be any chargeback rights under the scheme. I'm afraid her subsequent transfer of funds to McoinMarket wouldn't give rise to a valid claim. In the event, Barclays did attempt a chargeback, but that was defended. And Mrs N didn't meet VISA's deadline to provide further information for Barclays to take that further.
- Under regulations, and in accordance with general banking terms and conditions, banks should execute an authorised payment instruction without undue delay. The starting position is that liability for an authorised payment rests with the payer, even if they're duped into making that payment, for example to an investment scam. There is no dispute that Mrs N authorised the payments.
- Whilst Barclays, along with other payment services providers, should be monitoring accounts and be on the lookout for unusual transactions or other signs of fraud, I don't think there was anything so unusual or uncharacteristic about Mrs N's payments that ought to have alerted Barclays that she might have been at risk of financial harm. Most of the payments had been for £10,000 or less. And Mrs N had received in and made payments out, of similar if not far higher sums, including to investments, in the months leading up to the payments in dispute. And Mrs N regularly made payments to new payees and international payments.
- I am aware that Barclays did, in fact, intervene when Mrs N attempted to make a payment of £50,000, even though she had made payments of a similar amount in the past. And it required Mrs N to attend branch as it thought she might be victim to a scam. But Mrs N wasn't honest with Barclays about where the money was going. I appreciate she was told to say what she did by McoinMarket's agent. But this ought to have raised suspicions with her, why was there a need to be dishonest, if all was above board with her investment? By not being honest she didn't help the bank to help her. I therefore don't uphold this part of the complaint.
- I turn now to the loan. Before lending, a lender ought to ensure it has completed reasonable and proportionate checks to satisfy itself any lending is affordable and sustainable. Different amounts of borrowing would result in different types of checks being done; for example less checks are likely needed for someone borrowing £1,000 than £20,000. Mrs N was borrowing £50,000 and I think most reasonable people would agree that outside of a mortgage, that is a substantial sum to borrow. Barclays said Mrs N met its criteria to lend. But it hasn't shown what that criteria was or how she met it. Nor has it shown what checks it did to ensure Mrs N could sustainably afford the borrowing. From the limited information we do have - the statements - it would appear Mrs N sometimes had disposable income at the end of each month but that amount varied and quite often her debits exceeded the credits into the account. This loan had a monthly repayment of over £950. Had Barclays carried out reasonable and proportionate checks, I think it would have been clear that Mrs N would have struggled to sustainably afford repayments to the loan and so it shouldn't have lent. I therefore uphold this part of Mrs N's complaint. I do, nevertheless, need to take into account that Mrs N has had the benefit of the loan funds, albeit she lost that money to a scam. I therefore agree the investigator's

redress recommendation that Barclays doesn't need to write off the loan, but it should waive any interest and charges associated with it.

My final decision

For the reasons given, my final decision is that I uphold Mrs N's complaint in part. I require Barclays Bank UK PLC to:

- Remove any interest applied to the loan – effectively making it interest free. It should rework the loan balance as if all payments made to date have been used to reduce the capital balance. And Mrs N's repayments going forward should be purely capital; and
- Remove or refund any charges that make up any part of the loan balance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 27 April 2022.

Claire Hopkins
Ombudsman