

The complaint

Mr S is unhappy that Barclays Bank UK PLC won't refund money he lost from his personal account as part of a scam.

What happened

- In March 2019, a series of payments were made from Mr S's personal account as a result of Mr S's involvement with a fraudulent broker, Get Financial.
- Mr S accepts he made the first payments – totalling £30,000 – thinking it was a good investment. But after he was warned by Barclays about an attempted £75,000 payment, he became suspicious of the company, and he tried to get his money back.
- Mr S said he was on the phone with Get Financial for a long time and they asked for some of his personal information to withdraw his money, as well as using remote access software on his computer.
- After this call, Mr S discovered there had been debit card transactions to various trading platforms, as well as two online banking payments.
- Mr S disputed these with Barclays, who didn't refund them. Unhappy, Mr S brought his concerns to us.
- In March 2022, I contacted both sides to explain why I thought Mr S's complaint should be upheld. In summary:
 - I thought it was reasonable to say that Mr S authorised the debit card transactions according to the Payment Services Regulations 2017. But that there were points where Barclays should've intervened and I believed this would've prevented some of Mr S's losses.
 - So I said Barclays should refund these, with a 20% deduction to reflect that Mr S was also partly to blame.
 - I thought the faster payments made using Mr S's online banking were likely unauthorised payments. So I said Barclays should refund these in full.
 - Given the significant stress caused by Barclays not stepping in and not refunding these sooner, I said it should pay £500 to reflect Mr S's pain and suffering.
- Mr S didn't add anything further. Barclays replied. They broadly accepted what I said, but they didn't agree with the 20% deduction for Mr S's contributory negligence – saying it should be 50% instead.

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 considered Barclays' points about why the redress should be reduced further to reflect Mr S's contributory negligence. They've pointed out how there was a warning on the Financial Conduct Authority's website before Mr S invested and how he sounded unsure about the company when he spoke to Barclays.

I agree with Barclays that these things mean Mr S is partly to blame, but I don't think it warrants a 50% reduction. In saying that, I've balanced that he could've done more to research Get Financial before making his initial investment. But that Barclays not only didn't always intervene at the appropriate times, but later, when Mr S was persuaded to stop investing, Barclays suggested he remain in touch with the fraudulent company to get his money back. And it was this later interaction that resulted in a lot of Mr S's losses.

Making a deduction for contributory negligence isn't an exact science. And to be clear, it's distinct to the Contingent Reimbursement Model, which is a voluntary code and not applicable in this case. So, in all the circumstances, I'm satisfied 20% fairly reflects how Mr S shares some blame for what happened.

Given that neither side has added anything further in response to the rest of my initial thoughts on this case, I see no reason to depart from them. For completeness, I've explained the basis of my findings again.

It's not disputed that Mr S was the victim of a scam involving Get Financial. So I've started by considering what payments he authorised. Broadly, the starting position is that Mr S is liable for payments he authorised and Barclays are liable for unauthorised payments.

The online banking payments from 8 and 12 March 2019

It's accepted Mr S authorised two payments – for £10,000 and £20,000 – thinking it was for a legitimate investment.

The card payments from 25 March 2019

I've considered whether Mr S authorised the card payments and so, whether he gave his consent to the transactions as per the Payment Services Regulations 2017. The details of what happened aren't clear, but Mr S said he was trying to get his original investment back – this involved a long call with Get Financial, involving remote access.

I think it's likely Mr S was guided through setting up online wallets – he consistently said he provided ID, which tends to be used for account opening checks, and that he was told they needed to use offshore wallets to facilitate his withdrawal.

I also think it's likely he shared his card details and understood that Get Financial were using these details to make payments to his wallets. That's considering the call recording from this date where Mr S confirms a payment to AAA Trade.

So, I'm persuaded that most people would have understood and, indeed, that Mr S did know that his actions meant someone else could authorise payments using his card. So I think it's fair that Barclays treated these as authorised payments.

That's not to say Mr S wanted all these payments to be made or that he fully appreciated the extent of them. From experience, I think it's likely this happened under the guise that he needed to make a further investment to withdraw his funds, or that he needed to pay 'taxes' or a 'commission'. But, in accordance with the PSRs, Mr S didn't know the details of each payment – it was enough that he knew they were making payments from his account.

The online banking payments on 26 March 2019

I've considered the online banking payments separately. Again, the circumstances of these payments aren't clear. But I have noted there's a call from that day where Mr S says that when money was being transferred *into* his account, he had to go onto his online banking and use his PIN sentry device.

So I think it's likely that the fraudsters used this opportunity to set up the payments and convinced Mr S to share the required security information under the guise he was receiving money. So, I don't think he consented to payments and, unlike the card payments, I don't think his actions meant he understood, or that he ought to have understood, that Get Financial could authorise payments through his online banking. After all, he wasn't aware that any money was leaving his account. It follows that I consider the online banking payments were unauthorised.

Were the transactions out of character or unusual, or were there other signs that might indicate Mr S was at risk of financial harm?

In line with the PSRs, the starting position is that Mr S is liable for the payments he authorised. But it remains that Barclays should fairly and reasonably have had systems in place to look out for out of character or unusual transactions, or other signs that might indicate Mr S was at risk of fraud.

I've noted that Barclays intervened on the first payment and he was referred to branch. The notes suggest they confirmed the payment was genuinely made by Mr S, but there's nothing to suggest they questioned him about what the payment was for – something I'd expect given their obligations to protect him from financial harm. If they had, I think it's unlikely Mr S would've made the payment. Indeed, when Barclays intervened later and warned Mr S about a £75,000 payment, he didn't go ahead with it based on his doubts.

With appropriate intervention, I don't think Mr S would've made another investment – and it's possible to say that the scam wouldn't have unfolded at all. However, I've gone on to consider the card payments from 25 March 2019 separately. That's on the basis that this started from something new, so it's likely too remote to say that Barclays' original mistake caused it.

Looking at the card payments, I think Barclays ought to have been concerned from the fourth payment. I've considered:

- It was an international payment;
- It followed several other international payments that happened within ten minutes;
- The amount, \$7,500, was higher than Mr S's regular spending, particularly given the cumulative spend in ten minutes (this payment would've amounted to \$17,500 that day);
- Barclays had recently spoken with Mr S, who said he was concerned he'd been the victim of a scam.

Based on these circumstances, I think Barclays should've stepped in. Had they called Mr S and asked about the payments, I think they would've prevented further losses. That's because I'm confident Mr S would've explained how he wanted to get his investment back (as he consistently told Barclays later that day). So I think Barclays could've warned him that any payment he was making, or information he was sharing, was likely a continuation of the scam.

It's logical this would've also stopped the online banking payments that took place later that day. But either way, given my finding that these were unauthorised, I don't think Mr S is liable. In saying this, I'm not persuaded Mr S failed with gross negligence. He was anxious to get his money back and I don't think it's implausible that someone might need to approve large payments coming into their account. I'm also mindful that it's likely Get Financial manipulated his screen, so that he wouldn't have seen any payment details (I think this would also explain why Mr S didn't notice any money was missing, and why he thought money had been paid in). It follows that I don't think Mr S fell *so far below* what a reasonable person would've done that he failed with *gross* negligence. So under the PSRs 2017, I think Barclays are liable for these online banking payments.

Did Mr S act reasonably in the circumstances?

While I don't think Mr S failed with *gross* negligence, I have still considered whether he should bear some responsibility for his loss. In the circumstances, I think he should've done more to look into who he was dealing with before making online banking transfers to invest – after all, it was clear when he spoke with Barclays that he wasn't sure about them. I've also considered his actions in trying to get his money back. I'm mindful that he handed over information to people that he'd clearly had concerns about. But I'm also conscious that the staff member from Barclays suggested that he stay in contact with Get Financial to get his investment back, and to be careful to not suggest he was suspicious. So, in the circumstances, I think it's fair to deduct 20% to reflect Mr S's contributory negligence.

Putting things right

I've put together the following table setting out what my findings mean for how Barclays must settle this:

Date and time	Transaction type	Amount	Refund	Deduction from refund
07/03/2019 at 22:00	Online banking	£10,000.00	Yes, Barclays should've intervened	20%
12/03/2019 at 10:05	Online banking	£20,000.00	Yes, based on successful intervention	20%
25/03/2019 at 18:34	Card Payment (AAA Trade)	£78.08	No	
26/03/2019 at 09:17	Card Payment (AAA Trade)	£1,561.98	No	
26/03/2019 at 09:22	Card Payment (AAA Trade)	£2,342.99	No	
26/03/2019 at 09:23	Card Payment (AAA Trade)	£3,904.97	No	
26/03/2019 at 09:25	Card Payment (AAA Trade)	£5,857.46	Yes, Barclays should've intervened	20%
26/03/2019 at 09:26	Card Payment (AAA Trade)	£5,466.96	Yes, based on successful intervention	20%
26/03/2019	Card Payment	£3,904.97	Yes, based on successful	20%

at 09:28	(AAA Trade)		intervention	
26/03/2019 at 09:44	Card Payment (Melex.io)	£1,686.95	Yes, based on successful intervention	20%
26/03/2019 at 09:45	Card Payment (Melex.io)	£2,530.42	Yes, based on successful intervention	20%
26/03/2019 at 09:47	Card Payment (Melex.io)	£1,939.99	Yes, based on successful intervention	20%
26/03/2019 at 11:52	Card Payment (Jubiter)	£1,561.98	Yes, based on successful intervention	20%
26/03/2019 at 11:54	Card Payment (Jubiter)	£3,904.97	Yes, based on successful intervention	20%
26/03/2019 at 11:56	Card Payment (Jubiter)	£5,466.96	Yes, based on successful intervention	20%
26/03/2019 at 11:59	Card Payment (Jubiter)	£3,904.97	Yes, based on successful intervention	20%
26/03/2019 at 12:01	Card Payment (Jubiter)	£3,904.97	Yes, based on successful intervention	20%
26/03/2019 at 12:03	Card Payment (Jubiter)	£3,902.60	Yes, based on successful intervention	20%
26/03/2019 at 12:05	Card Payment (Jubiter)	£3,902.60	Yes, based on successful intervention	20%
26/03/2019 at 12:07	Card Payment (Jubiter)	£3,902.60	Yes, based on successful intervention	20%
26/03/2019 at 12:09	Card Payment (Jubiter)	£3,941.83	Yes, based on successful intervention	20%
26/03/2019 at 12:11	Card Payment (Jubiter)	£3,941.83	Yes, based on successful intervention	20%
26/03/2019 at 19:08	Online banking	£50,000.00	Yes, unauthorised	
26/03/2019 at 19:48	Online banking	£49,000.00	Yes, unauthorised	

This totals £170,777.65. Barclays should deduct any money Mr S received back, which I understand was £37,809.43, making the total refund £132,968.22. Mr S hasn't had use of these funds. So Barclays should also pay 8% simple interest from the respective dates of loss to the date of refund (less any tax lawfully deductible).

While Mr S shares some blame in what happened, it remains that Barclays should've refunded this sooner and that caused him considerable stress. So I also award £500 for his pain and suffering.

Payments from Mr S's business account

To be clear, this decision has only considered payments from Mr S's personal account. As his business account concerns a limited company – a separate legal entity – we will need to consider this as a separate complaint.

My final decision

For the reasons I've explained, I uphold Mr S's complaint. Barclays Bank UK PLC must put things right as I've explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 April 2022.

Emma Szkolar
Ombudsman