

The complaint

Mr A complains that Barclays Bank UK PLC (“Barclays”) have failed to refund over £27,000 he says he lost to an investment scam.

What happened

The details of this complaint are well known to both parties, so I will not repeat all the details again here. Instead, I will provide a brief summary and focus on giving the reasons for my decision.

Mr A says he fell victim to an investment scam with a fraudulent telecoms company, which had been facilitated through an investment platform that purported to offer ethical Islamic investment opportunities. His investment was linked to the wholesale of mobile phones, and he knew of one of his friends who had also invested over £100,000 in the telecoms company and was making good returns.

Mr A realised he had been scammed when he was unable to withdraw his investment and asked Barclays to refund the money he had lost under the Contingent Reimbursement Model (CRM) Code. However, Barclays refused as it considered the matter to be a civil buyer/seller dispute rather than a scam.

Our investigator upheld the complaint. He was satisfied that the investment opportunity was a scam rather than a civil dispute and said that Barclays ought to provide a refund under the CRM Code. Barclays failed to respond to the investigator’s view, so the matter has been escalated to me for a final 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.

Having done so, I agree with the conclusions reached by the investigator for the following reasons:

- I appreciate Barclays considers Mr A dispute to be a civil matter given that he did receive some returns from his initial investment. But there’s evidence to suggest the telecoms company was operating a Ponzi scheme here, and I note that several other banks have accepted this to be a scam (from other individuals who also lost their money to the same company). Having reviewed all the relevant information, and having received information from other relevant parties, I’m also satisfied this was a scam and would therefore fall to be considered under the CRM Code.
- I’ve considered whether Mr A failed to take the requisite level of care required for Barclays to choose not to reimburse him under the CRM Code, which requires payment service providers to reimburse customers who have been the victims of authorised push payment scams like this, in all but limited circumstances. It is for Barclays to establish that a customer failed to meet the requisite level of care under

one, or more, of the exceptions set out in the CRM Code. The exceptions relevant to this case are that the customer ignored an effective warning, or had no reasonable basis for believing the payee was legitimate.

- Barclays have provided no evidence of an effective warning having been issued at the point Mr A made any of the payments. So, it has not established that he failed to meet his requisite level of care by ignoring an effective warning.
- I also don't think Barclays has been able to establish that Mr A did not have a reasonable basis for believing that he was making legitimate payments. He was introduced to the investment by a friend who was also making returns at the time. This meant he had little reason to doubt it was a genuine opportunity, as it had come recommended from a friend rather than someone who had approached him out of the blue. Mr A said that he researched the telecoms company online and saw they were registered on Companies House as well as being listed on Hot UK Deals and having working eBay accounts.
- Mr A also received returns on his initial investment, which is a common tactic used by scammers (particularly in Ponzi schemes) in order to entice their victims to invest larger sums. But it would have given Mr A the reassurance that he was investing in a legitimate opportunity as everything appeared as though he was making a return on his investment, and that he was able to make withdrawals.
- So, I'm not persuaded Barclays has been able to establish that Mr A lacked a reasonable basis for believing the payments were genuine, and I don't consider he failed to meet his requisite level of care under the Code. I'm not satisfied that Barclays met its standards as a firm under the CRM Code either as it has not been able to demonstrate that it provided any effective warning to Mr A despite there being an identifiable APP scam risk. Therefore, I conclude that Barclays should have reimbursed Mr A under the provisions of the CRM Code.
- I also note that Barclays failed to meet its service level agreement for completing the fraud claim Mr A had raised. And I acknowledge that its failure to refund his money under the Code when he first made the claim would have also caused him undue distress. However, Barclays has already paid £200 in recognition of the distress and inconvenience caused, which I'm satisfied is fair compensation for the trouble caused to Mr A.

My final decision

For the reasons given above, I uphold this complaint and direct Barclays Bank UK PLC to refund the payments Mr A made to the scammer, less any credits received.

Barclays should also pay interest at the account rate on this amount from the date it declined Mr A's claim under the Code until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 9 February 2023.

Jack Ferris
Ombudsman