

The complaint

Miss R is unhappy with Barclays Bank UK PLC (Barclays) because it's not waiving the remaining 50% of the £38,900 loan, she was tricked into taking out as part of a romance scam.

What happened

The circumstances that led to this complaint are well known, so I won't repeat them in detail here. I'll recap the key points, and focus on giving reasons for my decision:

- In April 2022 Miss R met someone (I will refer to as S) on a dating app who persuaded her to invest money into cryptocurrency. But it actually turned out to be a scam. She lost £45,490 in total. £38,900 of this was from a loan taken through the bank. She sent the money via faster payments from her account into a cryptocurrency account in her own name and from there onto a fake trading account.
- Miss R reported the scam to Barclays. She said she was only concerned about having the loan written off. Barclays refunded 50% of the loan amount. But Barclays refused to reimburse Miss R in full because it said she didn't carry out sufficient checks before making the payments. It also tried to reclaim the money from the receiving account, but apart from £27.88, Miss R's money had already left the account.
- Our investigator agreed that the complaint should be upheld in part. But asked Barclays to also refund 50% of the interest that had been applied to the loan.

Miss R wanted the loan written off in full, so the complaint has come to me to review. I wrote to both parties explaining that I felt some of the earlier transactions should be partly upheld and Miss R should be reimbursed for 50% of those transactions too.

Barclays accepted my opinion. Miss R responded saying she wanted to provide some more context about the loan. She raised new issues regarding the eligibility of the loan and the repayments she was making towards the loan.

Miss R says she was going to use the loan to buy home furniture. She further explained that the loan was moved to her cash wallet and never used on the trading platform as she previously had done with her own money. Miss R said the transaction to her wallet was approved by Barclays after she said she was going to buy the furniture, so everything looked safe.

I told Miss R the issues regarding her eligibility for the loan and those surrounding the repayments she was making towards the loan are new issues not raised with Barclays before. So, Miss R will need to raise these with Barclays.

As the case could not be resolved informally, I am issuing 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.

The payment was made to an account in Miss R's name, so it isn't covered under the Contingent Reimbursement Model (CRM) code. But I've gone on to consider whether Barclays should've prevented the payments from being made.

Should Barclays have prevented the payments from being made?

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account. And I have taken that into account when looking into what is fair and reasonable in this case. But a bank also has to be on the lookout for, and help to prevent payments, that could involve fraud or be the result of a scam.

It is not in dispute that Miss R authorised the scam payments. It is also not in dispute that Miss R was duped by the scammer into instructing the bank to transfer money to a cryptocurrency account and, ultimately on from there, into the scammer's account. The scammer deceived her over a messaging platform into thinking she was making a legitimate cryptocurrency investment for further trading. As I understand it, payments to the cryptocurrency provider were used to purchase cryptocurrency which was then placed in a wallet in Miss R's name and on from there it was moved for further trading with a fake trading platform. So, although Miss R did not intend the money to go to the scammer, under the Payment Services Regulations 2017, and the terms and conditions of her account, she is presumed liable for the loss in the first instance.

However, taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Starling should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

My remit is an inquisitorial one. There were earlier transactions that went towards the same scam in this case. Whilst I note Miss R did not want the earlier transactions to be considered as part of this complaint – that seems to have been on the premise that the whole loan was written off. That hasn't happened here. I therefore think it only fair and reasonable to bring into question the earlier transactions connected with this scam. So, I have gone on to consider them.

Whilst the initial transfers were relatively small and weren't sufficiently out of character that I would've expected Barclays to intervene, they did in fact trigger Barclays' fraud detection system - and Barclays did in fact intervene and called Miss R to ask about the £1,900 transfer on 25 April 2022. Accordingly, it's just a question of whether it did enough in all the circumstances.

Aspects of the call are good - for example during the call there is some questioning around the purpose of the transfer and some general scam warnings including cryptocurrency scams. There is also a warning that, once you transferred your money, you will not be able to get your money back – if something goes wrong. But I still think Barclays should have done more.

Miss R confirmed the purpose of the transfer was to buy cryptocurrency and when asked how long she had been investing in cryptocurrency, Miss R confirmed she had just started. When questioned, she explained that she had been doing the investment with a friend who knew how to do it. Miss R confirmed that she'd opened the account (which was her own) with her friend's help. Whilst the caller does ask how Miss R knew this person – Miss R deflected answering this question by saying '*he's just my friend*' and she confirmed he is a '*recent friend but we're close*'. I think this warranted further questioning.

I do think Barclays could have probed more about the friend – for example – Barclays could have asked where Miss R had met S, had she met him in person and how long exactly was '*recent*'. Further questions about where the money was going after the purchase of cryptocurrency could have been asked – for example was a trading platform involved. I think there were signs here that Miss R was also the victim of a romance scam – she was guarded in her response about who was helping her and confirmed it was a '*recent friend but we're close*'. And, I do think with more probing that Miss R would have told the caller that she hadn't actually met the friend in person and had only known S for a matter of weeks. With more questioning I think Miss R would have told Barclays that contact with the individual had very quickly moved from a dating site to a messaging platform outside of the site and that she was provided with links to what she thought was a legitimate trading platform.

With further questioning, I think Barclays would have been concerned and put on notice that Miss R was falling victim to a scam. It could have gone to warn her about romance scams and cryptocurrency scams with fake trading platforms. I think this would have caused sufficient doubt in Miss R's mind not to proceed with the payment. In other words, if Barclays had carried out further or better questioning in line with the bank's duty of care, it seems probable that Miss R would have become credulous about the scam in time and stopped the payment of £1,900, and those that followed, in its tracks. The fraud would have failed; and Miss R would not have lost her money.

Could Miss R have done more to mitigate her losses?

I've thought carefully about what Barclays' obligations were, as set out above. But another key issue is whether Miss R acted reasonably taking into account all the circumstances of the scam. So, I have also considered whether Miss R should bear some responsibility for her losses.

Miss R invested considerable sums of money based on advice from someone she'd met through an online dating site after just a week or so. S quickly deleted his dating app and moved onto a messaging platform – and it seems there were a number of other things which made Miss R suspicious. Miss R had not met or spoken to S in person. I think the risk is clearly heightened and warranted further checking.

I appreciate the money did not appear to be going directly to S, but Miss R only took what S was saying and acted on this. I accept that the money was initially going to a genuine cryptocurrency provider, but the money was moved on to a trading platform and I think Miss R ought reasonably to have done more to check this was a genuine investment opportunity.

Miss R clearly had reservations about the loan and tried to cancel it and told S she was going to do so. Miss R told S *'we need to stop talking about the loan and trading until we meet'*.

I do appreciate and understand what Miss R is saying about the terms and conditions of the loan that specifically say it is not to be used for investment purposes. And that when Barclays fraud team called her letting the first payment from the loan through – it could see that the money had originated from a loan and that it was being used for cryptocurrency. I accept and agree Barclays didn't do enough (as explained above). But here I'm also thinking about whether Miss R acted reasonably too. Miss R acknowledged she knew the terms of the loan – it is evident from the messages she had with S - where S himself pointed out loans can't be taken for investments. Miss R clearly had reservations about lying to the bank and about proceeding with the loan until she had met with S. Despite these reservations and knowledge – Miss R still proceeded and (in my view) gave a false reason for the loan purpose (to buy furniture) on the application form.

I appreciate Miss R says she was genuinely intending to use the loan for furniture and that the money from the loan – although transferred to her cryptocurrency wallet - was never used on the trading platform. But I still think Miss R was investing by placing the money in her wallet and I don't think cryptocurrency is the usual way to pay for home furniture. Ultimately given what I have said above, Miss R had concerns and still proceeded. On that basis, I still think it's reasonable for her to share the responsibility with Barclays and reduce the refund on all of the payments by 50%.

Putting things right

For the transactions that were funded by the loan, Barclays has already refunded Miss R 50% of the original loan amount – so £19,450 - and more recently 50% of the interest applied to the loan. Miss R could have mitigated her losses by paying those sums into the loan – but I note she hasn't done so. I am not awarding anything further in relation to the transactions that were funded by the loan.

However, I am partially upholding the transactions for £1,900 and £4,280 on 25 April 2022. To put things right for Miss R, Barclays Bank UK PLC has agreed to refund 50% of these two transactions with interest from the date of the transaction to the date of settlement.

In relation to interest, for the two transactions on 25 April 2022, there's no suggestion that Miss R intended to spend or use the majority of the lost funds. Miss R confirmed the money came from her savings. I therefore think interest should be paid at the originating savings account rate from the date of each transaction to the date of settlement.

I understand Miss R cashed in an ISA to fund some of the transactions. So, I think fair compensation should reflect the position she would have been in (as closely as possible) had the funds remained there. I assume Miss R will be able to pay the refunded amount back into a Cash ISA – she has not indicated otherwise in response to my previous communication on this.

My final decision

My final decision is I uphold this complaint in part, and I require Barclays Bank UK PLC to

put things right for Miss R as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 26 May 2023.

Kathryn Milne
Ombudsman