

The complaint

Mr P complains that Barclays Bank UK Plc has declined to refund him payments that he made in relation to an investment scam.

What happened

Mr P says he fell victim to a cryptocurrency investment scam after he was added to a new WhatsApp group chat. He saw members of the group discussing their investments and profits, and then one of the “brokers” reached out to him directly. Mr P was told he needed to first obtain cryptocurrency through an exchange and then use this to invest. He allowed the “broker”, who he now believes to be a scammer, to help him set up an account with a cryptocurrency exchange platform – which I’ll refer to as H.

Between October 2021 and January 2022 Mr P made over 40 debit card payments totalling over £37,000 to H. From there he and the scammer would send cryptocurrency on to a third party that he believed was a legitimate investment provider – I’ll refer to it as T.

Mr P says he started with a smaller amount and increased this after he was able to withdraw funds once, and that the scammer showed him live numbers and graphs which looked legitimate. However, when he tried to withdraw some of his profits he lost all contact with the scammer and soon after T’s online investment portal disappeared.

Barclays declined Mr P’s claim on the basis that the chargebacks it attempted were unsuccessful – it said Mr P had paid a legitimate cryptocurrency exchange and received the relevant service i.e. cryptocurrency credited to his e-wallet.

When Mr P complained to our service, the initial investigator didn’t uphold the complaint. Upon receiving further evidence, a second investigator then upheld the complaint. In summary they said they thought Mr P had been the victim of a scam and that Barclays should have intervened at the first payment. They thought this would have prevented Mr P’s loss and so they recommended Barclays provide a full refund plus 8% simple interest.

Mr P accepted this outcome, but Barclays didn’t respond. Both parties have had a further opportunity to provide any comments in relation to this matter, but Barclays has not done so by the deadline set.

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’m upholding the complaint for the following reasons:

- It doesn’t appear to be in dispute that Mr P has been the victim of a scam. For completeness, based on the information available I’m persuaded that he was. This is

because Mr P's version of events is plausible and consistent with well-known scams, it's supported by evidence of his communication with the "scammer", and there are now multiple scam reports online about T.

- Mr P has confirmed that he made the disputed payments which means they were authorised. So, the starting point under the relevant regulations is that Barclays was expected to execute those payments without undue delay. But Barclays also has certain duties to protect its customers, including against the risk of financial loss due to fraud which is where I think it fell short.
- On 19 August 2021 the International Organisation of Securities Commissions (IOSCO) included a warning about H on its investor alerts portal – this came from a Spanish regulator. So, I think it's reasonable to expect Barclays to have updated its watchlist by the time Mr P attempted his first payment to it on 11 October 2021. While this warning doesn't necessarily mean that H isn't a legitimate platform, it should have been enough to cause Barclays to intervene.
- Had Barclays stopped Mr P's first payment and asked appropriate probing questions, I think the scam would've been revealed. We have no reason to think Mr P wouldn't have provided honest answers in the circumstances, so it's likely he would have explained he'd been contacted unexpectedly via WhatsApp about an investment opportunity. And that he'd been encouraged to purchase cryptocurrency through H and then move it on to what he'd been led to believe was the investment platform T. Further, that a third party purporting to be a broker had helped him set up these accounts and made payments directly.
- As this had the hallmarks of a typical cryptocurrency scam at the time, it would have been appropriate for Barclays to provide a warning to Mr P in relation to this. This would have given Mr P a reason to doubt the legitimacy of the investment and educated him on the risks associated with this potentially being a scam. As a result, he likely wouldn't have gone on to make further payments to H. So, I think an appropriately significant intervention would more likely than not have prevented the loss that Mr P is seeking to recover now.
- I've considered whether Mr P bears some responsibility for the loss here, and therefore whether it would be fair to make a deduction to the award in the circumstances. Here, Mr P didn't have investment experience, and there were sophisticated techniques used (such as T's online portal and the trading graphs that he was shown) which made the investment look legitimate. I appreciate that Mr P may not have carried out any in-depth external checks on T. But even if he had, I'm not persuaded he would necessarily have discovered that they were likely fraudulent. This is because there weren't poor reviews or scam reports easily discoverable online at the time (as there are now). So, I don't consider it would be fair and reasonable to reduce Mr P's compensation on the basis that he was negligent in the circumstances.

So, for the reasons explained I don't think Barclays acted fairly in declining Mr P's request for a refund of the disputed payments – these total £37,560. To recognise the time Mr P has been without these funds, I also think Barclays should pay Mr P interest on this amount.

My final decision

My final decision is that Barclays Bank UK Plc should pay Mr P the following:

1. £37,560 – this is the total amount Mr P paid to H and lost as a result of the scam.

2. Add 8% simple interest per year to that amount from the date of the payments to the date of settlement.

*If Barclays Bank UK Plc considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr P how much it's taken off. It should also give Mr P a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 2 October 2023.

Stephanie Mitchell
Ombudsman