

The complaint

Mrs M complains that Barclays Bank UK PLC (“Barclays”) won’t refund the money she lost as part of a scam.

What happened

The background to this complaint is well known to both parties, so I’ll only refer to some key events here.

In November 2019, Mrs M saw an advert for a company that I will call B. Mrs M completed an enquiry form and was contact by a representative of B.

Subsequently, the following payments were made to two crypto exchanges via debit card payment and bank transfer and my understanding is that the funds were then transferred to B. (Please note that the dates have been amended from my provisional decision due to an error in the date of payments 3,4,5)

Transaction Number	Date	Amount	Payee	Type of Payment
1	28 November 2019	£900	CCx.IO Estonia	Debit Card
2	28 January 2020	£1,250	CCx.IO Estonia	Debit Card
3	4 February 2020	£800	CCx.IO Estonia	Debit Card
4	6 February 2020	£7,150	CCx.IO Estonia	Debit Card
5	13 February 2020	£5,500	CCx.IO Estonia	Debit Card
6	9 November 2020	£5,100	Luno Money Ltd	Transfer
7	13 November 2020	£20,000	Luno Money Ltd	Transfer
8	13 November 2020	£5,000	Luno Money Ltd	Transfer
9	16 November 2020	£20,000	Luno Money Ltd	Transfer
10	17 November 2020	£25,000	Luno Money Ltd	Transfer
11	20 November 2020	£12,623	Luno Money Ltd	Transfer
12	2 February 2021	£2,168.70	CCx.IO Estonia	Refund
13	12 March 2021	£2,364	Luno Money Ltd	Refund

14	7 April 2021	£2,026.26	Luno Money Ltd	Refund
15	11 May 2021	£2,000	Luno Money Ltd	Refund

Mrs M realised that she had been scammed when her account “disappeared” from B.

I issued a provisional decision on 12 January 2024 in which I said the following:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

At the time Mrs M made her payments, banks and building societies were expected to process payments a customer authorised it to make; but as a matter of good industry practice, they should have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam.

There is a balance to be struck: banks and building societies had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction.

All of the payments in dispute were sent to a well-known crypto exchange. So, it's reasonable for me to conclude that Barclays ought to have known that Mrs M was likely purchasing crypto at the time she sent these payments. I've also thought about whether there was anything else about the payments which ought to have concerned Barclays.

Firstly, I need to address whether Mrs M was scammed at all. Initially Mrs M's representative did not supply us with sufficient evidence to demonstrate that she was scammed. That said recent information provided in relation to the refunds received after the final transaction have the hallmarks of a scam and set out that Mrs M was dealing with B. I also can see numerous negative reviews of B so I am satisfied that the transactions in question were part of a scam.

The first six payments

I don't think I can fairly say that the first six payments were off a sufficient size for Barclays to have intervened. I also note, from Mrs M's bank statements that she has made payments of a larger size in the past. Including a payment of £14,000 to an investment firm.

Payment seven

I do however think payment seven, ought to have warranted an intervention from Barclays especially as it appears that the payment was initially blocked, and an interaction did occur between Mrs M and Barclays at this time.

I recognise that if an intervention by Barclays had taken place, it likely would've identified that the payment was going to the consumer's own account with the crypto exchanges in question. But I don't think the conversation should have stopped only on the basis that the money appeared to be going somewhere safe and within the consumer's control.

I say this because, by the time Mrs M made these payments, Barclays ought reasonably to have had a good enough understanding of how these scams worked, to have been able to identify the risk of harm occurring to its account holders from fraud. This includes the consumer often making a number of purchases of crypto assets in a relatively short space of time or a consumer repeatedly sending money to a platform where the money is subsequently moved on to or taken by the scammer. So, it is with this in mind that I think Barclays ought to have probed further about the nature and context of the payments Mrs M was making.

In light of this, I think Mrs M's losses were foreseeable to Barclays, despite the payments on the face of it not leaving her control. And I'm satisfied that, had Barclays asked relevant questions of Mrs M, it would have been apparent that she was falling victim to a scam. In other words, but for Barclays's failure to make reasonable further enquiries, it would have been on notice that there was a very high chance that Mrs M was going to suffer financial harm from fraud.

Had Barclays provided Mrs M with a warning, it would have likely alerted her to the common issues arising in relation to cryptocurrency scams. I think this, in turn, would have led Mrs M to question whether she was in fact dealing with a legitimate business if she had then researched B more closely she would have discovered that there were negative reviews about B and what she was being promised had the common features of scam. The result of this is that, probing questions from Barclays about the nature of the payments would have likely stopped Mrs M from making any further payments.

I note that Barclays did give Mrs M a warning about scams in 2019 a few days prior to the first payment. That said I do not know what this warning consisted of also I don't think a warning a year prior to when I think an intervention should have happened abrogates the need for it to have intervened when a transaction for £20,0000 was sent to a crypto exchange. I think a specific warning given at transaction 7 would've had more of an effect on the actions of Mrs M. So, I think that Barclays should have intervened at transaction 7 and had it done so I think it would have stopped the scam.

I've also thought about whether Mrs M's actions contributed to her losses. Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions. In this instance I am unsure of what if any research Mrs M had done about B. I have also not been provided enough information about Mrs M's transactions to say that what she was promised was reasonable. So given this I think that Mrs M actions did contribute towards her own loss

I've considered whether Barclays could have recovered any of Mrs M's payments. But given that the timescales involved and given that payments were sent to a crypto exchange and were then forwarded on to B, I don't think that any recovery could have been made or that the Contingent Reimbursement Model applies in this instance.

Putting things right

Currently I am intending to uphold this complaint in part and I think that Barclays Bank UK PLC should do the following.

- Calculate the loss of payments 7 – 11 (I believe this is £82,623) deduct the amount refunded in transaction 12,13,14,15 (I believe this is £8,558.96) Pay 50% of this figure. I estimate this to be £37,032.02*
- It should also pay 8% simple interest, per year, on this amount, from the date of the payment, to the date of settlement (less any lawfully deductible tax)*

Mrs M agreed with my provisional decision Barclays did not respond.

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.

In this instance as no new points have been raised there is no reason for me to depart from my provisional decision. In summary I think that Barclays should have intervened when payment 7 was made and had it done so the scam would have been stopped. I also think that Mrs M contributed to her own loss. So, I think that Barclays should refund 50% of Mrs M's loss after that point.

I also did not think that Barclays could have recovered Mrs M's payments via other means.

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My final decision

I uphold this complaint in part and Barclays Bank UK PLC should pay compensation to Mrs M as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 7 March 2024.

Charlie Newton
Ombudsman