

## **The complaint**

Mr G complains that Barclays Bank UK PLC (“Barclays”) is refusing to refund him the amount he lost as the result of a scam.

Mr G is being represented by a third party. To keep things simple, I will refer to Mr G throughout my decision.

## **What happened**

The background of this complaint is well known to all parties, so I won’t repeat what happened in detail.

In summary, Mr G did some online research into investments and came across a company that I will call B. After satisfying himself that B was a legitimate company and checking that B was regulated, Mr G opened an account on B’s platform. Having provided his personal identification documents he was able to perform trades after being given advice from B’s agents using its platform.

Mr G made payments into the scam via his account held with Barclays Bank using his debit card. He made a number of payments totalling over £1,100,000 between June 2019 and February 2020.

Mr G says initially his investments did quite well and during the time he invested with B he was able to make small withdrawals - which added to his confidence with B.

Mr G was no longer able to access the trading platform in mid-2020 and a few years later, upon discovering that criminal proceedings have begun against employees of B, he realised that he may have been scammed.

Our Investigator considered Mr G’s complaint and didn’t think it should be upheld. Mr G disagreed so this complaint has been passed to me to decide.

## **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.

It has not been disputed that Mr G has fallen victim to what appears to be in hindsight a possible scam. The evidence provided by both Mr G and Barclays Bank sets out what happened. What is in dispute is whether Barclays Bank should refund the money Mr G lost due to the scam.

It has been accepted that Mr G authorised the payments that were made from his account with Barclays Bank, albeit on B’s instruction. So, the starting point here is that Mr G is responsible.

However, banks and other Payment Services Providers (PSPs) should have systems in place to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Barclays Bank should have been aware of the scam and stepped in and questioned Mr G about the payments he was making. And if it had questioned Mr G, I would then need to consider if Barclays would've been able to prevent the scam taking place.

In this instance I think it is clear that Barclays should have intervened and questioned the payments that were made. Especially when a payment of £19,000 was made in July 2019 - which was a payment that was unusual for Mr G's account.

But had an intervention taken place I don't think that it would have changed Mr G's decision to carry on with the transactions. I also don't think it would have been apparent to Barclays that Mr G was being scammed.

I say this because firstly, B was regulated in another country, but it did have passported rights to offer financial services to UK customers. B was regulated, had been since 2013, and had passported rights into the UK since 2014, which it still held at the time of the payments. The FCA also didn't publish a warning about B until 1 June 2020, which is after Mr G made the payments. Therefore, this warning would not have been available at the relevant time.

So at the time the payments were made, B seemed to be a legitimate company that was appropriately regulated in the UK. Therefore, had Barclays intervened and asked what the payments were for, the answers that Mr G would've likely provided would not have alerted Barclays that the payments being made were likely part of a scam.

I've considered what warnings Barclays may've provided, although I don't think that it needed to given the situation. Nevertheless, a warning that it likely would have questioned whether Mr G had researched the company and checked if it was regulated correctly. But as this had already been done by Mr G, I don't think that this would have stopped him from making the payments.

I should clarify though, that Barclays does not have a duty to prevent Mr G from making a bad bargain, making a risky investment or indeed to provide financial advice in relation to transactions like this.

So overall, whilst I think that Barclays should have questioned the payments that Mr G made, I don't think it would have been apparent that Mr G was being scammed. So in the circumstances I don't think even if Barclays had intervened that it would have prevented Mr G from carrying on with the payments in question.

### ***Recovering the payments Mr G made***

Mr G made payments into the scam via his debit card. When payments are made by card the only recovery option available to Barclays is to request a chargeback.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Unfortunately, Mr G made his complaint to Barclays well outside of the allowed time to raise a chargeback. So this delay has unfortunately led to Barclays not being able to process a charge back claim for Mr G's payments.

I have also considered whether Mr G should receive a refund for the payments he made into the scam under the Contingent Reimbursement Model (CRM) Code. But the CRM code doesn't cover payments made by debit card, so it would not apply.

With the above in mind, I don't think Barclays had any recovery options available to it for the payments Mr G made.

I appreciate this will likely come as a disappointment to Mr G, and I'm sorry to hear that he has lost a significant amount of money. However, in the circumstances, I do not consider it would be fair and reasonable to hold Barclays liable for his loss.

### **My final decision**

For the reasons given above, I do not uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 13 March 2024.

Charlie Newton  
**Ombudsman**