

The complaint

Ms L complains that Barclays Bank UK PLC won't refund money she lost when she fell victim to an investment scam.

Ms L is being represented by solicitors in her complaint.

What happened

The detailed background to this complaint is well-known to both parties and has been previously set out by the investigator. So, I won't repeat it again here. Instead, I'll provide an overview and focus on giving my reasons for my decision.

Ms L was looking to improve her financial situation, and, in the summer of 2022, she came across an advertisement online for an investment broker, "G". She's told us she had seen cryptocurrency investments being endorsed by a well-known broadcaster at the time.

Ms L registered her interest and received a call from an individual representing G. After doing some initial checks, Ms L agreed to trading with G. Between August 2022 and February 2023, Ms L made several payments from her Barclays account to deposit funds in her account with G. Some were debit card transactions, while others were transfers – either via her account with an electronic money institution that was opened specifically for this purpose or international payments to a firm as per her account manager's instructions. In the summer of 2023, Ms L realised she'd been scammed when she couldn't make withdrawals and stopped getting responses to her queries.

Barclays refused to reimburse Ms L's loss and the matter was referred to our service. Our investigator initially recommended Barclays to refund the last four transactions which were made in February 2023. They concluded that there was nothing unusual about the earlier transactions such that Barclays ought to have questioned Ms L before releasing the payment.

Ms L accepted the investigator's findings, but Barclays didn't fully agree with their recommendation. The bank accepted that it should have intervened at the point the investigator had concluded. It also accepted that it was likely such an intervention would have uncovered the scam, thereby limiting Ms L's losses. But the bank said it believed Ms L should share equal blame for what happened, and as such it should only be required to refund 50% of the last four transactions (along with interest).

The investigator considered Barclays's submission and was ultimately persuaded that a deduction for contributory negligence was warranted in this case. Ms L didn't agree, and so the 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.

Firstly, I'd like to thank Ms L, her representative, and Barclays for their patience while the complaint has been awaiting an ombudsman's review. I'd like to reassure the parties that although I've only given an overview of the background and the arguments made, I've read and considered everything we've been provided in its entirety.

It's accepted by all parties that Ms L was scammed by G. Neither party disputes that Barclays ought to have intervened when Ms L made the first seven transactions. It's also agreed the bank should have asked appropriate questions when Ms L went to her local branch in February 2023 to make the next scam-related transaction. And that had it done so, it's more likely than not that the scam would have been uncovered and Ms L wouldn't have gone ahead with that transaction – and the subsequent transactions she's disputing.

It therefore seems to me that what's left for me to decide here is whether it is fair that a deduction is made from the refund that Barclays has accepted liability for.

There's a general principle that consumers must take responsibility for their decisions. So, I've duly considered whether Ms L should bear some responsibility by way of contributory negligence.

We've been told that Ms L carried out some research into G before deciding to invest. Her representative has said Ms L recalls G's website looked legitimate and professional. And in her initial submission (sent to our service directly) Ms L states she read reviews on G, and they all seemed fair – G had good customer service and people had made money with them.

Both Barclays and Ms L's representative have provided screenshots of the results from an online search about G from August 2022. Although the same search engine has been used, the results vary slightly. I consider this is down to the fact that Barclays added the word 'review' to its search. I've also independently carried out a search to check what Ms L would likely have seen at the time. I think it's fair to say the results show mixed reviews about G. Where the reports are negative, they range from G being unregulated to it operating a scam.

I acknowledge Ms L's claim that she was an inexperienced investor. As such, I wouldn't expect her to have known at the outset what regulatory checks she needed to carry out. But it's clear from her actions that she knew she needed to carry out some due diligence before engaging with G. And where there were mixed reviews – as evidenced by the results of the searches carried out by me, Barclays, and Ms L's representative – with some suggesting G was scamming people, I consider further due diligence was warranted.

I'm mindful that information in the public domain like articles and reviews on websites are not in themselves sufficient evidence of fraud. And that warnings published on websites of regulators across the world are more credible sources. But, considered in conjunction with other factors such as fake celebrity endorsements, such information may fairly and reasonably be regarded as circumstantial evidence that helps build an overall picture of scammers dishonestly seeking gains at the expense of others.

Ms L's comments suggest that in her decision-making she also placed weight on the fact that a celebrity journalist and broadcaster had endorsed investing in cryptocurrency. Given my research shows there were mixed reviews about G online, I would have expected Ms L to have carried out further independent checks on it and investing in cryptocurrency in general before parting with her money. In the circumstances of what happened here, I consider it reasonable to have also verified the legitimacy of the claims attributed to a celebrity.

Had Ms L done so, she would have discovered that the individual had publicly called out such endorsements as fake. There are several news articles about this in addition to what

the individual has posted on their company website. In fact, Ms L could have also discovered that the celebrity had sued a social media company about adverts using their name. All that would have cast even more doubt on the legitimacy of G.

I recognise that this isn't the outcome Ms L was expecting. But as she didn't carry out sufficient due diligence before parting with even more money, having thought carefully about this, I do think that Ms L ought to share responsibility for her losses and that compensation should be reduced accordingly. I consider it would be fair to reduce compensation payable by 50%.

Putting things right

To put matters right, Barclays Bank UK PLC needs to –

- Refund 50% of the last four disputed transactions, i.e., 50% of £7,000, and
- Pay simple interest at 8% per year to the refunded amount, calculated from the date of the transaction to the date of settlement (less any tax properly deductible).

My final decision

For the reasons given, my final decision is that I uphold this complaint. Barclays Bank UK PLC needs to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 5 July 2024.

Gagandeep Singh
Ombudsman