

The complaint

Mr H is unhappy that Barclays Bank UK PLC won't refund him for money he lost as a result of an investment scam.

What happened

Mr H was looking to supplement his income in light of his increasing caring responsibilities. Further to looking online, he was contacted by an investment broker that I'll call 'A' with the opportunity to invest in gas and oil options. Unfortunately, A were in fact fraudsters.

Before investing, Mr H said he carried out a number of checks. This included checking the Financial Conduct Authority's (FCA) website as well as calling the FCA for advice. He also attended a Barclays' branch, telling them he was a new investor and he'd followed the checks and warnings on Barclays' website. He said he asked them several questions about the investment, but they didn't ask to see paperwork or ask any in-depth questions. He remembered it was a similar experience when he went back to branch to make further payments towards the investment.

Mr H made the following payments as part of the scam. These went to a global account platform based abroad, before landing in the fraudsters' hands.

Date	Amount
14 April 2022	£4,972.00
27 April 2022	£13,375.76
17 June 2022	£60,676.70
2 September 2022	£13,260.00
19 October 2022	£7,054.00
16 November 2022	£22,657.00
Total	£121,983.00

Mr H realised he'd been the victim of a scam when all communication stopped with A and they disappeared. So, through his representatives, he made a claim to Barclays. It didn't refund him as it didn't think it would've been able to determine that Mr H was falling victim to a scam when he made the payments. The complaint has subsequently been passed to me to make 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.

Having done so, I've reached the same outcome as our investigator for these reasons:

- In broad terms, the starting position is that Barclays is expected to process payments that Mr H authorises it to make, in accordance with the Payment Services Regulations 2017. While Mr H was a victim of a cruel scam, it's accepted he authorised the payments. That's means he's presumed liable for the losses in the

first instance.

- However, there are circumstances when it might be appropriate for Barclays to take additional steps before processing a payment. Such as when there are grounds to suspect the payment presents a fraud risk. That might occur when a payment is significantly unusual or uncharacteristic compared to the normal use of the account.
- It's possible to argue Barclays should've intervened with these payments – potentially with the first payment and again with the third payment, given the increase in spending. But having considered the matter carefully, I'm not convinced Barclays would've uncovered that Mr H was falling victim to a scam.
- I recognise he expected and was prepared to answer more thorough questions about the investment when he went to a Barclays' branch. But Barclays, in line with the Banking Protocol, would've been expected to be on the lookout for *common* signs he was at risk of financial harm. It's not expected to provide a failproof fraud checking service, nor do I think it's reasonable to expect staff to know the ins and outs of particularly niche and sophisticated investment scams. Instead, I'd expect staff to ask appropriate and proportionate questions that balance protecting Mr H from fraud against fulfilling its mandate to make the payments he tells it to promptly.
- I accept it's likely that reasonable questions would've revealed that Mr H was sending money abroad to an unregulated company. While this carries a greater risk, there are of course legitimate unregulated investments.
- And here, even if the branch staff had probed further and asked to see the paperwork, I'm mindful that the sophisticated, elaborate nature of the investment and the complexity of the supposed investment made the scam particularly tricky to detect. Indeed, I imagine this was part of the fraudsters' cover.
- Moreover, I think appropriate questioning would've revealed that Mr H had prudently done his own research on investment scams and that he'd discussed the details with the FCA. I think that would've been particularly persuasive reassurance for both sides – after all, it's tricky for staff to assert they know more about fraud risks than the FCA.
- Mr H's representatives point out that the staff shouldn't have taken his answers at face value. But I think that's more relevant for situations where he might've potentially been given a cover story or coached by the fraudsters. Whereas I don't think that seemed a pertinent risk for this particular scam. And, as I've explained, I'm not convinced that branch staff would've uncovered this even if they had asked to see the paperwork.
- Taking this all into account, I'm not persuaded that Barclays would've reasonably been able to uncover this was a scam even if it had carried out the intervention I'd expect it to. So I don't think it acted unfairly when it made the payments Mr H told it to.
- As well as whether Barclays ought to have prevented Mr H's losses, I've considered whether it ought to have done more to recover them. But given the time that had passed between when Mr H made the payments and when Barclays realised they were part of a scam, I think it's very unlikely there would've been anything left to recover.
- I realise this will be particularly disappointing news to Mr H, who ultimately is the

victim of a particularly cruel and clever scam. But for the reasons I've explained, I don't think Barclays can be fairly and reasonably blamed for failing to stop or recover his losses. So I don't uphold this complaint.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 7 May 2024.

Emma Szkolar
Ombudsman