

## **The complaint**

Mr P complains that Barclays Bank UK PLC (Barclays) is refusing to refund him the amount he lost as the result of several scams.

Mr P is being represented by a third party. To keep things simple, I will refer to Mr P 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 P was looking on Facebook when he saw an advertisement for an investment opportunity with a company called Universal Markets (X). Mr P was interested in the potential opportunity so completed an online data capture form with his personal information.

Mr P then received a call from X and it was confirmed that X would trade on Mr P's behalf. Mr P was required to pay an initial deposit of £250 to setup his account.

Once Mr P had an account, he was appointed an account manager who told Mr P that he could guarantee a good return if Mr P followed his guidance. As part of the investment process Mr P was required to download the remote access software AnyDesk.

X was in contact with Mr P on a regular basis and had built a level of trust with him. Mr P could see his investment was doing well and continued to make payments as directed by X.

As this investment appeared to be doing well Mr P started to look for other opportunities and came across another advertisement on Facebook for the company called Phoenix Capital (Y). Mr P followed the same process again completing an online data capture form with his personal details.

Mr P was then contacted by Y and an account was setup again following Mr P making an initial deposit payment. Mr P was again assigned an account manager who built a rapport with him persuading him to invest.

Mr P decided to make a withdrawal from his investment with Y but when he made the request, he was told he would have to make a payment in relation to tax first. Mr P also received an email from Y's accounts department confirming the payment that was due.

After agreeing to make the tax payment Mr P did not receive his withdrawal and he was unable to contact Y. It was at this stage that Mr P realised he had fallen victim to scam.

Mr P then attempted to make a withdrawal from his investment with X, but the request was declined, and he realised that the investment with X was also a scam.

Mr P was then contacted by a company called Blackstone Recovery (Z). Z appeared to have Mr P's personal information and explained it was aware of the investment Mr P had made

with X and that it could help recover Mr P's funds.

Mr P agreed to make several payments to Z so that it could work on the recovery of his funds but after making the payments Mr P was unable to contact Z and felt this was also a further scam.

The scams took place a long time ago, but Mr P has confirmed the following payments were made in relation to the scams.

**Scam 1 Universal Markets:**

<u>Date</u>	<u>Payee</u>	<u>Amount</u>	<u>Payment Method</u>
29 May 2018	International transfer	£10,000.00	Transfer
22 August 2018	Yiju Trade Ltd	£40,000.00	Debit Card
18 December 2018	Konopus Star Sp	£34,853.04	Transfer

**Scam 2 Phoenix Capital:**

<u>Date</u>	<u>Payee</u>	<u>Amount</u>	<u>Payment Method</u>
22 January 2019	Jubiter.com_eur	£5,163.77	Debit Card

**Scam 3 Blackstone Recovery:**

<u>Date</u>	<u>Payee</u>	<u>Amount</u>	<u>Payment Method</u>
15 February 2019	Blackstone Intel	£500.00	Debit Card
11 March 2019	Blackstone Intel	£500.00	Debit Card
22 August 2019	Blackstone Intel	£271.87	Debit Card
4 December 2019	Interrecsrl	£3,145.00	Debit Card

After Mr P brought his complaint to Barclays it was able to see that a conversation had taken place between Mr P and Barclays when he made the payment on 22 August 2018 of £40,000 but due to the passage of time this recording was no longer available.

As Barclays was unable to confirm the content of the call it agreed to refund Mr P 50% of the amount he had lost to the scams (£47,216.84) and paid him a further £200 compensation for the service he had received.

Our Investigator considered Mr P's complaint and thought the offer made by Barclays was fair. So, they didn't uphold the complaint.

Mr P 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 P has fallen victim to cruel scams. The evidence provided by both Mr P and Barclays sets out what happened. What is in dispute is whether Barclays should refund the money Mr P lost due to the scams.

***Recovering the payments Mr P made***

Mr P made payments into the scam via his debit card and via the method of transfer. When payments are made by card the only recovery option Barclays has 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 P made his complaint to Barclays outside of the allowed time to raise a chargeback and therefore Barclays has been unable to attempt a chargeback for the payments Mr P made into the scams.

When payments are made by transfer Barclays has limited recovery options available to it. Barclays could ask the receiving banks to refund any funds that remain in the payee accounts. But considering the time that passed between Mr P making the payments and reporting them to Barclays I think it's highly unlikely this type of request would be successful.

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

*Should Barclays have reasonably prevented the payments Mr P made?*

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

However, banks and other Payment Services Providers (PSPs) do have a duty 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 should have been aware of the scam and stepped into question Mr P about the payments he was making. And if it had questioned Mr P, would it have been able to prevent the scam taking place.

The payments Mr P made in relation to the scams were made by transfer and debit card payment. These payments were made a long time ago and understandably limited information is now available.

It's not possible to know what, if any, conversation took place when Mr P made the transfer payments, but a conversation took place between Mr P and Barclays when he made the largest payment of £40,000 using his debit card. While a recording of this call is no longer available, I think the call is likely to have taken place due to concerns Barclays had with the large payment and details of the payment were likely discussed.

With the information that is available it is difficult to decide whether Barclays should have done more to prevent the payments that Mr P made, and that it is therefore responsible for his loss.

Did Mr P contribute to his loss?

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions (see s.1C(d) of our enabling statute, the Financial Services and Markets Act 2000).

In the circumstances, if I were to hold Barclays responsible for Mr P's loss, I do think it would be fair to reduce compensation on the basis that Mr P should share blame for what happened.

Around the time Mr P started to invest with Universal Markets there were several negative reviews available online. Considering the size of the payments Mr P was making I think he should have at least carried out a basic online search that would likely have uncovered the reviews and made Mr P think twice before making the payments.

Mr P was also contacted directly in relation to the third scam from a third-party company that had all his details and offered to help him recover the funds he had lost investing with X. I think the direct contact should have been a red flag for Mr P and he should have sought further advice before making the requested payments, especially as the largest of these payments appears to have been made to a different business altogether.

Taking everything into account I think the offer made by Barclays to refund 50% of Mr P's loss was fair, and I don't think it would be reasonable for me to ask Barclays to do anything more.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 10 May 2024.

Terry Woodham  
**Ombudsman**