

## The complaint

Mr B complains that Barclays Bank UK PLC won't refund money he lost when he was the victim of a job scam.

Mr B is represented by a firm that I'll refer to as 'R'.

## What happened

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

In late 2022, at a time when he was looking for extra work, Mr B saw an advertisement on social media and provided his contact information. He was subsequently contacted on an instant messaging app by a scam recruiter offering a job opportunity with a firm I'll refer to as 'I'. Mr B has explained the job entailed simulating the purchase of items (completing tasks) – such as washing machines and televisions – which, in turn, improved the algorithms and the merchant's ability to sell them. Mr B was expecting to earn around £100 a day by completing the tasks.

Before going ahead with the job opportunity, Mr B says he researched 'I' online and saw that it was a large genuine international company. And that he found positive satisfaction reviews made by ex-employees and clients.

The scam required Mr B to purchase and send crypto to the scam platform – with the funds used to simulate the purchase that would generate commission. This commission, along with the deposited funds, could then later be withdrawn once the set of tasks was completed. Mr B says he realised he'd been scammed when the deposits became larger, and the platform wouldn't allow him to make any withdrawals.

Mr B sent funds directly to crypto exchanges and to individual payees to make peer-to-peer crypto purchases before forwarding it on as part of the scam. He made the following payments from his Barclay's current account:

| Date (statement) | Type          | Crypto exchange/Peer-to-peer | Amount         |
|------------------|---------------|------------------------------|----------------|
| 3 January 2023   | Fund transfer | Peer-to-Peer                 | £720           |
| 4 January 2023   | Fund transfer | Crypto Exchange A            | £850           |
| 4 January 2023   | Fund transfer | Crypto Exchange A            | £2,000         |
| 5 January 2023   | Fund transfer | Crypto Exchange A            | £5,350         |
| 24 February 2023 | Fund transfer | Crypto Exchange A            | £2,000         |
| 13 March 2023    | Debit card    | Crypto Exchange B            | £2,323         |
| 17 March 2023    | Debit card    | Crypto Exchange C            | £2,630         |
| 4 August 2023    | Debit card    | Crypto Exchange C            | £1,280         |
| <b>Total</b>     |               |                              | <b>£17,153</b> |

Mr B also made the following payment from a business account for a limited company that he is the director of:

| Date (statement) | Type          | Crypto exchange/Peer-to-peer | Amount |
|------------------|---------------|------------------------------|--------|
| 3 January 2023   | Fund transfer | Peer-to-Peer                 | £35    |
| 4 January 2023   | Fund transfer | Peer-to-Peer                 | £360   |
| Total            |               |                              | £395   |

R complained to Barclays, on Mr B's behalf, on 13 October 2023 saying the payments were made as part of a scam. In short, they said:

- Barclays failed to identify out of character payments that were indicative of fraud. And had Barclays intervened appropriately, the fraud would've been prevented. As such, Mr B suffered a preventable financial loss which should be reimbursed.
- Barclays contacted Mr B about the payments, and he confirmed nobody else was involved with any trading and requested them to be released. Barclays however failed to carry out a proper intervention and ask probing questions regarding the transactions. Had they done so, they would've uncovered red flags and exposed the scam. At which point, Barclays should've taken appropriate measures to safeguard Mr B.
- To resolve the complaint, Barclays should reimburse Mr B and pay 8% interest.

Barclays didn't uphold the complaint. In short, they said:

- The website for 'I' has no relation to individual tasks or deposit making on a platform – but it primarily focuses on healthcare solutions. Had Mr B carried out additional research beforehand, he would've discovered this discrepancy.
- No legitimate company would typically request advance payments from their employees to receive earnings.
- On 4 January 2023, when they considered Mr B's payment to be inconsistent with his account activities, they contacted him, but he wasn't forthcoming about the payment. Their agent provided a comprehensive explanation of the risks associated with scams, as well as the inherent volatilities and hazards of crypto. Nevertheless, Mr B appeared disinterested in the agent's warnings and advice and continued to make the payments.
- They do not believe they failed in their duty of care to protect Mr B's funds.
- They wouldn't agree to a refund – especially as the funds were transferred to a crypto account before being forwarded to the scammers.

The complaint was referred to the Financial Ombudsman. Our Investigator didn't think Barclays had to do anything further. He said, while Barclays could've asked more open questions when they spoke to Mr B, he thought Mr B was given multiple opportunities to explain the surrounding circumstances of the payments, but he chose not to. Instead, Mr B chose not to disclose he'd come across a job opportunity via social media, nor did he tell Barclays there was a third party involved (only that he'd spoken to a friend that he knew in person). So, while Barclays could have done more, he didn't think any further questioning or warnings would've made a difference. And he considered Barclays' ability to expose the scam was hindered due to Mr B withholding significant information from them. Our Investigator also thought there was nothing Barclays could've done to recover Mr B's funds either.

R disagreed with our Investigator and so, the matter has been passed to me to decide. R didn't think Barclays' intervention was sufficient and, in short, they said:

- The quality of the call was poor as Mr B's telephone signal was causing disruption. This impacted the agent's ability to understand what Mr B was saying – and so, this might have impacted their comprehension of Mr B's circumstances. It would've been more appropriate for the agent to call back when Mr B's telephone signal was improved.
- In final decisions issued by the Financial Ombudsman, it's been said that banks need to ask open-ended and probing questions. And that they need to hold up their customers' answers to a reasonable level of security, as well as use their knowledge of fraud types and trends when questioning their customers. Banks have known since as early as 2018 that a huge fraud trend has been victims being told to send money through crypto, and that job/task-based scam are the second most common scam type.
- It is apparent that the agent didn't conduct this intervention to the standard expected of them – as they repeatedly asked leading questions and missed a number of key red flags and opportunities to probe further and uncover the scam. For example, when asked at the beginning of the call what the payment was for, Mr B says it was for 'T' (a crypto coin) but then, when asked if it was crypto he told Barclays *"I don't think it's crypto as there no Bitcoin"*. Mr B also told Barclays he was new to using the crypto exchange and it was the first time he'd used crypto. This demonstrated Mr B clearly had no understanding of crypto, but the agent moved on and never actually established what the purpose of the payment was for. But assumed it was for investment purposes.
- Mr B wasn't dishonest, nor did he intentionally mislead Barclays. The problem was Barclays' poor style of questioning and failure to probe for further information. Mr B cannot be punished for answering closed questions accurately and honestly simply because he didn't know the extra information the bank might want. For example:
  - Mr B was asked *"is anyone advising you on investments or doing them on your behalf?"*. He answered this 'no' which was entirely accurate as he wasn't investing nor advised to. Instead, he was making the payment to complete the tasks and withdraw his earnings.
  - Mr B was asked *"no one's been involved in this process in doing it for you at any point, this is all you, you haven't been speaking to anyone about this"*. He responded, *"no no, I was speaking with my friend but they didn't say do it or stuff like that"*. And when asked, *"by friend you mean real-life friend not online?"*, Mr B confirmed they had spoken to a real-life friend. This prompted the agent to give a generic warning about Mr B doing his own research.
- At no point was Mr B informed of the risks of crypto despite having displayed to the agent a lack of understanding and experience. And they find it concerning that the agent said they were *"satisfied there isn't a scam here and it doesn't sound like there's any risk of a scam"*. This couldn't be more damning and is a clear failure on Barclays' part as they practically told Mr B it was safe to proceed – ultimately, costing their victim to fall further victim to the scam.
- Had Mr B been appropriately questioned, Barclays would've exposed the scam as they would've seen all the hallmark red flags:
  - Mr B being approach by a recruiter on an instant messaging app.
  - Mr B being asked to deposit funds into crypto to get paid.
  - Mr B had no employment contract.
  - The scam involved the impersonation of a legitimate company. Barclays would've known this company would never ask people to send money through crypto.

## **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.

I'm sorry Mr B has been the victim of a scam. But while I appreciate this has had a significant impact on him, I must consider whether Barclays is responsible for the loss he's suffered. Having done so, and while I realise this isn't the outcome Mr B is hoping for, for similar reasons as our Investigator, I don't think they are. Because of this, I don't think Barclays acted unfairly by not refunding the payments. I'll explain why.

Before I do, I'd like to firstly address that two of the payments came from a business account for a limited company for which Mr B is a director. The claimed loss for these payments therefore lies with that limited company, not Mr B personally. As this complaint has been brought by Mr B, and not the limited company, I would be unable to direct Barclays to refund those payments – as I couldn't instruct Barclays to pay Mr B directly for losses the limited company suffered. In any event, and for the sake of completeness, for the reasons I'll go on to explain, I don't think Barclays would be required to refund them anyway.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. Here, it isn't disputed that Mr B knowingly made the payments and so, I'm satisfied he authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of the account(s), Barclays are expected to process Mr B's payments, and he is presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for Barclays to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

So, the starting point here is whether the instructions given by Mr B to Barclays (either individually or collectively) were unusual enough to have expected additional checks to be carried out before the payments were processed.

Barclays didn't carry out any additional checks until the £2,000 payment on 4 January 2023. Even considering the payments from the business account, I think this was reasonable in the circumstances as I don't think they were unusual or suspicious enough, given their relatively low values, for Barclays to have had enough reason to suspect Mr B (or the limited company) was at risk of financial harm from fraud. Barclays did however speak to Mr B before processing the £2,000 payment and so, I've considered whether they did enough to protect Mr B from the scam when carrying out their additional checks. And if they didn't, whether this caused his loss.

I've listened carefully to the call between Mr B and Barclays and, as R has pointed out, the quality of the connection was poor at times. This required the agent to ask Mr B to repeat himself on various occasions as they couldn't hear him clearly. But while this wasn't ideal, it did improve in the latter part of the call, and I'm not persuaded this disruption impeded the agent's ability to the extent whereby they weren't able to understand Mr B's circumstances (based on the answers he provided).

I've gone on to consider the content of the call and I accept some of the points put forward by R. I agree the agent could've asked Mr B more open questions as, at times, both close-ended and leading questions were used instead. But while that might be true, I'm not persuaded it was the agent's failure to probe further or their style of questioning that caused Mr B to suffer his loss.

Barclays asked Mr B various questions surrounding the circumstances of the payment. This included what the payment was for and whether a third party was involved. Mr B said the payment was for 'T' and that he was going to *"try a bit"*. He didn't however disclose or refer to the payment being related to a job, and the only third-party he confirmed he'd spoken to was a 'real-life' friend who hadn't told him what to do. This was despite receiving clear and detailed instructions from the scammer via the instant messenger app on how to purchase crypto, and the underlying reason for the payment being to purchase crypto for a job. Further to this, when asked what had led up to the payment – including whether it had been recommended to him, if he'd seen an advert on social media or if he'd done any research – Mr B, again, didn't disclose the full circumstances but only told Barclays that he'd carried out research. This was despite being offered the job opportunity after providing his contact details to an advertisement he'd seen on social media.

I'm aware that during the call there were moments whereby Mr B's understanding of crypto seemed limited. But while individuals who aren't experienced with crypto may potentially be more susceptible to financial harm from these types of scams, inexperience in itself doesn't necessarily mean payments for crypto purposes aren't legitimate. And Barclays isn't required to protect their customers from making bad financial decisions – unless there is an agreement for such advice to be provided. Here, while I think the agent could've used more open questions and probed further, I don't think this would've made a difference. Mr B had ample opportunity to explain he was purchasing crypto for a job; he was being instructed to do this by a third-party (who he hadn't met in person) and that he'd come across this opportunity through a social media advert.

It's unclear why Mr B failed to openly share this information with Barclays. But it unfortunately hindered Barclays' ability to uncover the scam Mr B was falling victim to. And I don't think I can reasonably hold Barclays responsible for that. This is because, at the time of the payment, although job scams involving crypto had started to become more common, crypto investment scams were more prevalent. And from what Mr B did disclose, that being he was purchasing T to try a bit of crypto, I think it was reasonable for Barclays to tailor their questioning to that type of scam – which, for example, included confirming that only Mr B had access to his wallet and that no third party was advising him on the investment or doing it on his behalf. Furthermore, based on the answers Mr B provided within the call, I also don't think there was enough reason for Barclays to suspect Mr B was being coached by a scammer – as there wasn't any reference to a third party other than a 'real-life' friend.

I therefore think Barclays would've been reassured Mr B wasn't falling victim to a scam but, instead, that he was purchasing crypto for legitimate purposes.

I've thought about whether Barclays ought to have carried out additional checks before processing any of the subsequent payments – particularly in respect of the £5,350 payment as it was higher in value than those that preceded it. But even if they had, I don't think it would've made a difference. This is because I'm not persuaded that, upon further questioning, Mr B would've answered any differently – so Barclays would've similarly been reassured he was purchasing crypto for legitimate purposes.

I'm also mindful that, as an alternative to speaking with Mr B, Barclays may have chosen to present him with a tailored written warning that highlighted the key risks and features associated with the most common crypto payments at that time - which, as I've said, was crypto investment scams. I recognise that a warning of that kind could not have covered off all scenarios. But I think it would have been a proportionate way for Barclays to minimise the

risk of financial harm to Mr B by covering the key features of scams affecting many customers but not imposing a level of friction disproportionate to the risk the payment presented. I've therefore considered if this would have been effective at preventing the loss.

Having done so, I don't think such a warning would've resonated with Mr B. This is because the key features of crypto investment scams, which I would've expected Barclays to have highlighted, would've included for example: an 'account manager', 'broker' or 'trader' acting on their behalf; the use of remote access software and a small initial deposit which quickly increases in value. These however wouldn't have been relevant to Mr B's circumstances.

It follows that, while I think Barclays arguably ought to have taken additional steps before processing the £5,350 payment, I'm not persuaded that even if they had this it would've made a difference. Because of this, I don't think Barclays' failure to provide such a warning or contact Mr B further caused his losses.

I've considered whether, on being alerted to the scam, Barclays could reasonably have done anything more to recover Mr B's losses, but I don't think they could. The only possible option for recovery for the payments made by debit card would have been for Barclays to have attempted a chargeback against the payee – that being the crypto exchanges. But given these payments were for the purchasing of crypto with legitimate firms, I don't think a chargeback claim would have been successful as Mr B received the service he paid for. In respect of the fund transfers to the crypto exchanges, Barclays could only contact the beneficiary bank – that being the banks used by the crypto exchanges. But Mr B moved the funds from his crypto wallets to the scam platform. And so, there wouldn't have been any funds remaining for Barclays to recover. But even if there were funds left, Mr B would've had access to the funds and could've removed them himself at the time – and quicker than any recovery attempt by Barclays. And in respect of the crypto purchased via the peer-to-peer market, Barclays wouldn't have had any basis to request the return of those funds as the crypto had been provided.

I have a great deal of sympathy for Mr B and the loss he's suffered. I want to reassure Mr B that I haven't taken this decision lightly. But it would only be fair for me to direct Barclays to refund his loss if I thought they were responsible – and I'm not persuaded that this was the case. For the above reasons, I think Barclays has acted fairly and so I'm not going to tell them to do anything further.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 February 2025.

Daniel O'Dell  
**Ombudsman**