

## The complaint

Ms B and Mr G complain that Barclays Bank UK PLC won't refund all the money they lost when they were the victim of two scams.

## What happened

Ms B and Mr G have been the victims of two scams, relating to investment in cryptocurrency.

### *1<sup>st</sup> scam*

In May 2020, Ms B and Mr G say they had seen a number of adverts and promotions for investing in cryptocurrency, and so filled in an enquiry form with one of the cryptocurrency investment companies they had seen advertised. They then received a call from an account manager, who helped them open an account on the investment company's trading platform and told them to download remote access software so they could guide them through making trades.

After making an initial investment, Ms B and Mr G had regular contact with the account manager and could log in to their account on the platform and see the profit it said they were making. The account manager then encouraged them to invest more in order to achieve higher profits and, as they were happy with what they were seeing, Ms B and Mr G made a number of further payments to the investment company – as instructed by the manager. I've set out the payments they made to the cryptocurrency investment company below:

Date	Amount
26 May 2020	£300
17 June 2020	£2,900
17 June 2020	£3,000
13 October 2020	£8,487.25
14 October 2020	£9,335.97
28 October 2020	£14,777.50
30 November 2020	£36,515
12 January 2021	£30,000
3 February 2021	£25,000

By April 2021, Ms B and Mr G had been told they had made a significant profit and so they asked to make a withdrawal from their investment. But they were then told they needed to pay a significant additional payment in before they could withdraw the money they had made. When their account manager couldn't provide a clear explanation of what this payment was for, Ms B and Mr G refused to pay in anything further and the account manager stopped responding to their messages. The investment company's website then also disappeared, and they were unable to log-in to their account on the trading platform.

### *2<sup>nd</sup> scam*

Around a month after the first scam ended, Ms B and Mr G received a phone call from someone who said they worked for a recovery company who were working to recover money

people had lost to the cryptocurrency investment company. And as the caller knew details of the investment they had made, Ms B and Mr G felt the caller was legitimate.

Ms B and Mr G were told the recovery company had recovered some funds already, that their money would be recovered in stages and that there would be a fee for any money recovered. Over the next few months, Ms B and Mr G then made a number of payments to the recovery company as they were told more and more of their money had been recovered. I've set out the payments they made to the recovery company below:

Date	Amount
29 July 2021	£200
20 August 2021	£11,250
27 August 2021	£4,500
8 September 2021	£12,000
8 September 2021	£4,500
13 September 2021	£1,800
30 September 2021	£3,000
30 September 2021	£3,000

Unfortunately, the recovery company ultimately stopped contacting Ms B and Mr G and responding to their messages. So Ms B and Mr G realised they had been the victim of a scam and reported the payments they had made to Barclays.

Barclays investigated and said it could have done more to prevent the scam. But it also felt Ms B and Mr G could have done more to protect themselves. It said it should have intervened when Ms B and Mr G tried to make the seventh payment to the first scam, and so offered to refund 50% of the money they had lost from that point onwards. It also offered to pay £150 as compensation for initially refunding a different amount. Ms B and Mr G weren't satisfied with Barclays' response, so referred a complaint to our service.

One of our investigators looked at the complaint. They agreed that Barclays should have intervened and that it was fair for Ms B and Mr B to also bear some responsibility for their loss. But they felt Barclays' calculation of the loss was incorrect, so it should refund an additional amount. Ms B and Mr G disagreed with our investigator as they felt Barclays should have intervened sooner, so the complaint has been passed to me.

### **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.

#### *Are the payments Ms B and Mr G made covered by the CRM code?*

I've first considered whether the CRM code applies to the payments Ms B and Mr G made here.

The Lending Standards Board Contingent Reimbursement Model (the CRM code) is a voluntary code, which Barclays has signed up to. It sets out a number of circumstances in which firms are required to reimburse customers who have been the victims of certain types of scams. But it only covers payments where a customer paid funds to another person for what they thought were legitimate purposes but which were in fact fraudulent, and doesn't apply to card payments.

But some of the payments Ms B and Mr G made as part of the first scam were card payments, so the CRM code doesn't apply to these payments.

And the rest of the payments Ms B and Mr G made as part of both scams appear to have been made to purchase cryptocurrency, which was then sent on to either the investment company or the recovery company. And as the purchases of the cryptocurrency appear to have been completed successfully and Ms B and Mr G were aware of the payments being made, these payments were for a legitimate purpose and the way the CRM code is written means I don't think it applies to these payments either.

So I don't think any of the payments Ms B and Mr G made here are covered by the CRM code.

*Did Barclays do enough to protect Ms B and Mr G?*

Ms B and Mr G have accepted that they made the payments out of their Barclays account themselves. So while I recognise that they didn't intend for the money to ultimately go to scammers, they did authorise the payments. And so the starting position in law is that they are liable for the payments and Barclays doesn't have to refund them.

However, taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I think Barclays should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

So I've also considered whether Barclays should have identified that Ms B and Mr G were potentially at risk of fraud as a result of any of these payments, or otherwise done more to protect them.

*The payments resulting from the first scam*

The first few payments Ms B and Mr G made as a result of the first scam weren't for particularly large amounts, or for amounts where I'd expect Barclays to identify a risk of fraud as a result of their size alone. They didn't leave the balance of the account at particularly unusual levels. They were relatively spread out, with several weeks and a number of genuine payments between them, so didn't form a particularly suspicious pattern. And it wasn't uncommon for relatively large payments to be made both into and out of their account.

So I wouldn't have expected Barclays to identify that Ms B and Mr G could be at risk of financial harm as a result of any of these payments, and I don't think it's unreasonable that it

didn't take any further steps or carry out any additional checks before allowing them to go through.

But when Ms B and Mr G tried to make the seventh payment here, for £36,515 on 30 November 2020, I think Barclays should have identified that they could be at risk of financial harm. This payment was for a significantly larger amount than the first few payments, and was for a significantly larger amount than any other payment made out of Ms B and Mr G's account in the months before the scam. So I think Barclays should have intervened at this point and carried out additional checks before allowing this payment to go through.

*What difference would the additional checks have made?*

Barclays has accepted that it should have intervened at this point, and so that it should share responsibility for the money Ms B and Mr G lost from this point onwards. So I don't need to consider whether the additional checks I think Barclays should have carried out would have made a difference any further.

Ms B and Mr G have argued that Barclays identified a risk and intervened when it blocked their account before the second payment they made in June 2020. So they feel Barclays should be responsible for the money they lost from this point instead. But from what I've seen, it appears Barclays blocked their account at this point in order to check that the payments being made were authorised by them – not because it identified a scam risk.

So I don't think Barclays did identify a scam risk at this point and, as I've explained above, I wouldn't have expected it to have identified a scam risk at this point as I don't think the payments being made were sufficiently out of character or unusual for the account. So I still think Barclays should only have identified a risk before the seventh payment on 30 November 2020, and that it would only be fair to require Barclays to bear some responsibility for Ms B and Mr G's loss from that point onwards.

*The payments resulting from the second scam*

While the payments Ms B and Mr G made as a result of the second scam were for a different purpose than the payments made as a result of the first scam, the second scam directly followed on from the first scam and could only take place after the first scam had happened. So I think it's likely that a successful intervention during the first scam would also have prevented Ms B and Mr G making any payments towards the second scam.

And so, as I think Barclays should bear some responsibility for some of the payments made as a result of the first scam, I also think it should bear some responsibility for all the payments made as a result of the second scam.

*Should Ms B and Mr G bear some responsibility for their loss?*

I've also thought about whether it would be fair for Ms B and Mrs G to bear some responsibility for their loss. And while I appreciate that this was a sophisticated scam where they were given access to a trading platform which appeared to show trades being made and the profit they were earning, I do think there were a number of things about what was happening that should have caused them significant concern.

Ms B and Mr G have said they first heard about the cryptocurrency investment company from an article published in a well-known and respected newspaper, which said a number of television presenters and successful businessmen had invested using the company. But they've not been able to send us a copy of this article, and I've not been able to find any

record of a similar article being published by that newspaper. So I'm not satisfied whatever advert they saw should have provided them with the level of confidence and reassurance they've said it did.

The account manager at the cryptocurrency investment company told Ms B and Mr G they needed remote access to their device in order to guide them through the process of making trades. But I wouldn't expect a legitimate company to require this kind of remote control over a client's computer, so I think being asked to download this remote access software and allow the account manager this kind of control should have caused Ms B and Mr G significant concern.

The investments Ms B and Mr G thought they were making appear to have required their money to be used to purchase cryptocurrency, which was then sent on to the investment company and used to make trades. But, from what I've seen, Ms B and Mr G don't appear to have had a particularly clear understanding of why this process was necessary or how their investment worked. And they appear to have lost access to and control over their money at some point during this process – which I think should have caused them significant concern.

The profit Ms B and Mr G were told they were making also appears to be suspiciously high. They've said they were told their investment had generated over 500% profit at the time they tried to make a withdrawal. But I think this level of profit is unrealistically high, particularly for this kind of investment, with seemingly low risk and over a relatively short period of time. So I think this should have caused Ms B and Mr G concern that what they were being told was too good to be true.

I also think Ms B and Mr G should have had concerns about the recovery company. They've said they were contacted by several companies claiming to be able to recover their money, which they identified as scams. But I'm not satisfied this recovery company having some of their personal details and some details of their investment should have been enough to persuade them that this company was genuine when others weren't.

It's also not clear why any payments Ms B and Mr G made to the recovery company had to be made in cryptocurrency. Or why they had to pay in advance as soon as the company said it had recovered some money, but would only receive that money back once all their investment had been recovered. So I think being asked to pay in this way should also have caused them significant concern.

I sympathise with the position Ms B and Mr G have found themselves in. They have been the victims of two cruel and sophisticated scams. But I think there were a number of things here which should have caused them significant concern. And I don't think they did enough, or that the seemingly genuine information they received from either company should have been enough, to overcome those concerns. So I think it would be fair for them to bear some responsibility for the loss they suffered.

### *Summary*

As I think both Ms B and Mr G, and Barclays, should bear some responsibility for the loss they suffered, I think it would be fair for Barclays to refund 50% of the money Ms B and Mr G lost – from the seventh payment onwards.

### *Customer Service*

Barclays has offered to pay Ms B and Mr G £150 as compensation for the poor customer service it provided to them. And, from the evidence I've seen, I think this offer is fair and

reasonable compensation for the distress and inconvenience this poor customer service caused Ms B and Mr G.

### **My final decision**

I uphold this complaint in part, and require Barclays Bank UK PLC to:

- Refund Ms B and Mr G 50% of the money they lost, from the seventh payment onwards – for a total of £65,882.50
- Pay Ms B and Mr G 8% simple interest on this refund, from the date of the payments until the date of settlement
- Pay Ms B and Mr G £150 compensation, if it has not already done so

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B and Mr G to accept or reject my decision before 12 July 2024.

Alan Millward  
**Ombudsman**