

The complaint

Miss B complains that Barclays Bank UK PLC didn't do enough to protect her from the financial harm caused by an investment scam, or to help her recover the money once she'd reported the scam to it.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In August 2022, Miss B was researching investments online and came across an advert on social media for an investment company which I'll refer to as "I". The advert claimed "I" could help her to make money by investing in cryptocurrency and that he could start with a deposit of \$250.

Miss B registered her interest via a link in the advert and was contacted by someone claiming to work for "I", who I'll refer to as "the scammer". The scammer explained the investment process and told Miss B she would do all the work for her, so it didn't matter that she had no investment experience. She explained she'd been an investor for a long time and that Miss B would be able to double her initial investment within a couple of weeks.

The scammer asked Miss B to download AnyDesk remote access software and guided her to create an account with "I", which required her to provide copy of her driving licence. Miss B could see different graphs and the changing rates of different cryptocurrencies on the trading platform.

The broker asked her to open accounts with two cryptocurrency exchange companies and told her to first purchase cryptocurrency through a cryptocurrency exchange company and then load it onto an online wallet. Between 2 September 2022 and 8 December 2022, she made three payments totalling £16,504.28 using a debit card connected to her Barclays account.

In December 2022, Miss B asked to make a withdrawal, but the scammer said she'd need to deposit a further £7,000, which she paid for using a loan which she took out on the advice of the scammer. She realised she'd been scammed when she didn't receive any funds, she lost contact with the scammer and was unable to access her trading account.

Miss B complained to Barclays, and it accepted it should have intervened when she made the second payment because it was out of character, so it offered to refund the final two payments. But it reduced the offer by 50% because she didn't do any due diligence and had accepted everything the third party had conveyed at face value. It also offered her £100 compensation for the distress and inconvenience caused by its failings.

Miss B complained to this service with the assistance of a representative. She said she didn't think it was fair for the settlement to be reduced because there were various factors which convinced her the opportunity was genuine, including the fact she was required to identification documents.

Her representative said Barclays ought to have intervened because Miss B made multiple unusually high payments to new payees linked to cryptocurrency, her account was rapidly depleted, and the value and velocity of the payments should have raised concerns. They said it failed to provide effective scam guidance which would have broken the spell of the scammer.

Barclays maintained Miss B failed to complete due diligence and the scam wasn't convincing. Miss B was promised unrealistic returns, she hadn't made any withdrawals and she was pressured to make more payments, which should have been red flags. She should have done further checks and independent research including checking the FCA register.

Finally, it confirmed that no card dispute cases were raised, and as Miss B authorised the payment, a chargeback wouldn't have been successful. And the complaint was resolved in a timely manner so no further compensation was required.

Our investigator said Miss B had failed to show confirmation that a trading account was set up, evidence of communication with the scammer or statements for the cryptocurrency wallet to confirm that funds were lost to the scam. However, even if she was satisfied that Miss B was scammed, she was satisfied Barclays' offer was fair.

She didn't think the first payment was suspicious or unusual for the account because it was low value and in line with the genuine spending on the account. She noted Barclays' offer to refund payments two and three, and she accepted the reduction was fair, commenting that there was no evidence that Miss B had done sufficient due diligence. She explained there was no paperwork to show the investment was genuine and there were negative reviews online about "I" which predated the payments and which Miss B would have seen if she'd done some simple research. She also noted that Miss B had taken out a loan to fund the investment and she was satisfied this showed she hadn't taken reasonable care when she made the payments, so she was satisfied the reduction for contributory negligence was fair.

She was also satisfied there was nothing Barclays could have done to recover the funds because the cryptocurrency was purchased before being sent on to the scam platform, and she didn't think there were any errors or delays with Barclays' investigation, so she didn't think any further compensation was warranted.

Miss B has asked for her complaint to be reviewed by an Ombudsman. Her representative has argued that the evidence about the scam was limited because Miss B had communicated with the scammer over the telephone and via WhatsApp. And our investigator didn't ask her for evidence of research.

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 conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Miss B has been the victim of a cruel scam. I know she feels strongly about this complaint, and this will come as a disappointment to him, so I'll explain why.

I've thought about whether Barclays could have done more to recover Miss B's payments when she reported the scam to it. Chargeback is a voluntary scheme run by Visa whereby it will ultimately arbitrate on a dispute between the merchant and customer if it cannot be resolved between them after two 'presentments'. Such arbitration is subject to the rules of the

scheme — so there are limited grounds on which a chargeback can succeed. Our role in such cases is not to second-guess Visa's arbitration decision or scheme rules, but to determine whether the regulated card issuer (i.e. Barclays) acted fairly and reasonably when presenting (or choosing not to present) a chargeback on behalf of its cardholder (Miss B).

Miss B's own testimony supports that she used cryptocurrency exchanges to facilitate the transfers. It's only possible to make a chargeback claim to the merchant that received the disputed payments. It's most likely that the cryptocurrency exchanges would have been able to evidence they'd done what was asked of them. That is, in exchange for Miss B's payments, they converted and sent an amount of cryptocurrency to the wallet address provided. So, any chargeback was destined fail, therefore I'm satisfied that Barclays decision not to raise a chargeback request against either of the cryptocurrency exchange companies was fair.

I'm satisfied Miss B 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although she didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of her bank account, Miss B is presumed liable for the loss in the first instance. Our investigator has expressed some doubts concerning whether Miss B has shown that she was scammed, but I don't need to make a finding on that because I'm satisfied Barclay's offer is fair.

I've thought about whether Barclays should have intervened when Miss B made the first payment, but I don't think it needed to. This is because it was a low value payment to a cryptocurrency exchange account in her own name. I accept payments two and three were unusual, but Barclays has already agreed to refund those payments and I'm satisfied that's fair.

Contributory negligence

There's a general principle that consumers must take responsibility for their decisions and conduct suitable due diligence, and, in the circumstances, I agree Miss B didn't do enough to protect herself from financial harm.

In recent years instances of individuals making large amounts of money by trading in cryptocurrency have been highly publicised to the extent that I don't think it was unreasonable for Miss B to have believed what she was told by the scammer in terms of the returns she was told were possible, notwithstanding the fact it was highly implausible. Miss B hadn't invested in cryptocurrency before and so this was an area with which she was unfamiliar. This unfamiliarity was compounded by the sophisticated nature of the scam, the fact she trusted the scammer and the fact she believed the trading platform was genuine and was reflecting the fact her investments were doing well.

Because she was an inexperienced investor, I wouldn't expect Miss B to have known to check the FCA website without being advised to do so by Barclays. But it's clear she didn't do reasonable basic diligence because a simple google search shows negative reviews about "I" which pre-date the payments and which would likely have alerted her to the fact there was a problem. And I think it's unreasonable that she used loan monies to fund such large payments on the advice of some she'd never met who she found on social media. So, I'm satisfied a 50% reduction for contributory negligence is fair.

Compensation

Barclays offered to pay Miss B £100 compensation for its failure to prevent the scam and I'm satisfied that's fair. But as the main cause for the upset was the scammer who persuaded

her to part with her funds and I haven't found any errors or delays to Barclays' investigation, I don't think she's entitled to any more compensation.

Recovery

I don't think there was a realistic prospect of a successful recovery because Miss B paid accounts in her own name and moved the funds onwards from there.

I'm sorry to hear Miss B has lost money and the effect this has had on her. But for the reasons I've explained, I can't fairly tell Barclays to do anything further to resolve this complaint.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 23 July 2024.

Carolyn Bonnell
Ombudsman