

The complaint

Mr P is complaining that Barclays Bank UK PLC won't provide a full refund of payments he made as part of a scam.

The complaint is brought on his behalf by a professional representative.

What happened

Mr P says he was contacted over a messaging app by someone he didn't know, who later turned out to be a scammer. They mentioned they'd made profits by investing in cryptocurrency through an investment company, and encouraged Mr P to do the same. Mr P says he was told he could expect returns of 15 to 20% per month.

Mr P says he researched the investment company online and didn't find anything to concern him, and he also looked at the investment company's website and believed it looked professional.

Mr P invested a total of £57,006.80 to the scam between 27 September 2022 and 1 December 2022, with payment amounts ranging between £500 and £8,000. He did this by transferring funds from his Barclays account to buy cryptocurrency, and he then transferred this to the scammers. He was able to view trades and profits through an online platform.

Payments of £9,510.49, £8,000 and £18 were returned to Mr P's Barclays account from Coinbase and Skrill due to the transfers not going through. He also received a small return of £43.80 from the scam after he made his first payment. Overall, £17,572.29 was returned to Mr P's account.

Barclays contacted Mr P by phone to discuss some of the payments before they allowed them to go through. Their notes of those conversations say that Mr P explained he'd done his own research, was aware of the risks, and had spoken to his brother who was an experienced cryptocurrency investor. After having these conversations Barclays released Mr P's payments.

The online platform showed Mr P had made a profit – but when he came to withdraw it, he was unable to do so. Mr P realised he'd fallen victim to a scam. On 28 March 2023 he contacted Barclays through his representative to report it. Barclays investigated what had happened, and on 12 April 2023 they issued their final response letter to Mr P.

Barclays felt they could have done more to let Mr P know he was at risk of being scammed before releasing the payments, so they offered to refund 50% of his loss to the scam, with simple interest at 8%. They calculated this (incorrectly) to be £19,276.23. They calculated interest at 8% as £836.53, of which they paid £167.30 directly to HMRC, leaving £669.23. They made this payment to Mr P's account. They also paid Mr P £50 for the inconvenience he'd experienced.

Mr P wasn't satisfied that the refund from Barclays resolved his complaint, because he thought he should receive a full refund of the money he lost to the scam. So, he brought his complaint to us.

Barclays then contacted us to explain that they'd miscalculated their offer to Mr P. They corrected this by offering an additional £441.03, plus 8% simple interest. They said they'd pay this to Mr P at the conclusion of the complaint.

Our investigator looked into Mr P's complaint and he thought Barclays' overall offer was fair. He thought Mr P should share the responsibility for his loss with Barclays, because he didn't carry out any substantive checks before investing in the company – and he said he had discovered there was information in the public domain at the time Mr P invested which would have alerted him to the scam. He thought the expected investment returns of 15 to 20% per month were unrealistic, and should have raised concerns with Mr P about whether the investment was genuine. He also thought the £50 compensation paid by Barclays was reasonable.

Mr P's representative replied to say Mr P didn't agree that he should share responsibility for the loss. They said that Mr P searched online for the investment company before investing, but he didn't see any scam warnings at the time. He identified the scam later down the line when he looked online again and saw a negative review. His representative pointed out that the investment company's name was similar to other companies and a slight variation in the search term Mr P was using would have led him to believe the company was legitimate. They said the website was professional and Mr P didn't notice any red flags. They also said that the withdrawal process gave Mr P confidence to invest.

Because Mr P didn't agree with the investigator's view, his complaint was passed to me for review and a decision.

I issued my provisional decision on 24 May 2024. This is what I said.

It's not in dispute that Mr P authorised the payments. And Barclays have a duty to act on his instructions. But in some circumstances, Barclays should take a closer look at the circumstances of the payments – for example, if they ought to be alert to a fraud risk, because the transaction is unusual, or looks out of character or suspicious. And if so, they should intervene, for example, by contacting the customer directly, before releasing the payments.

Barclays did intervene on some of Mr P's payments, and spoke to him on the phone on a number of occasions. But they have accepted that their interventions didn't go far enough here, and so they have offered to pay Mr P 50% of his loss to the scam, plus interest at 8% (and they have already refunded the majority of this to him.) They've also paid him £50 in compensation for inconvenience, and like the investigator I find £50 to be fair and reasonable, in the all the circumstances.

There was some discrepancy in the amount Mr P lost to the scam which has led to the miscalculation by Barclays – but both parties have now agreed that overall loss was £39,434.51, which is the total scam payments of £57,006.80 less the returns of £17,572.29. So, Barclays' offer of an additional £441.03, when added to the £19,276.23 they've already paid, adds up to £19,717.26, which is 50% of the loss.

The point that remains in dispute concerns whether Mr P should share responsibility for the loss because his actions fell short of the standard of care that would be expected of a reasonable person in these circumstances. So, this is what my provisional decision will focus on.

Mr P hasn't kept the conversation where he was introduced to the scam. Without seeing the scam conversation it's difficult for me to determine how persuasive the scam conversation was, or if there were any "red flags" that should have led Mr P to become suspicious. I'm mindful however, that Mr P's representative says he had only come to know the scammer recently before the scam via a social media message, and I think this, in itself, should have raised some red flags.

So, I would expect Mr P to have been more wary about the advice he was receiving to invest than he would perhaps have been if he was speaking to a close friend or family member, especially given the very high level of returns of at least 15% per month, which the scammer told him to expect from the investment. I think a reasonable person would have questioned what they were being promised, especially when investing not inconsiderable sums of money.

Mr P's representative has said he researched the investment company online before he invested but found nothing untoward; his representative has suggested he may have mis-typed the company name by leaving out a space when he did so. The investigator said he found information in the public domain at the time Mr P invested which would have shown this was a scam. But I've not found that there was much information available online to point to this particular company being a scam at the time Mr P made his original investment.

I can see that a detailed article about this particular scam investment company went online in early December 2022, but this was after Mr P's initial payments to the scam. I think it's possible it's this information that Mr P saw online which alerted him to the scam, but I don't think it was available at the time the scam began. So, I'm not currently persuaded to place much weight on this in reaching my decision.

Mr P has also said that he found the investment company's website to be professional. I'm not able to see the website now. However, as I've explained, this investment company is now known to be part of a scam, and there is research into this scam available online which explains there were various "red flags" with the website. For instance, the website was newly created, was poorly designed with little content, and links were not working or weren't leading to where they said they would. So, I'm not persuaded that the website was as professional as Mr P has said it was.

I don't think Mr P not noticing issues with the website would, in itself, necessarily lead me to conclude that Mr P hadn't taken reasonable care. But I'm taking this into account along with the other factors here – so, the initial approach of a person previously unknown to Mr P by a social media message, and the subsequent encouragement to invest with generous predicted returns. I think that these things should have alerted Mr P to be on his guard that this may not be a genuine investment. And looking at all the circumstances here, I am persuaded that a reasonable person would have taken more care to ensure that the investment they'd been presented with in this way was genuine before investing in it.

I can also see that Mr P took out four loans in order to invest in the scam – at least one of which he said was for home improvements – so it appears he gave incorrect information to access additional funds to invest in the scam. And I think he would have known there was at least some risk he wouldn't be able to repay these loans. I think that was negligent, and contributed to the extent of his loss.

So, subject to any further responses from Mr P and Barclays, my provisional decision is that Mr P should share equal responsibility for his loss to the scam with Barclays – so Barclays should only refund 50% of it.

Barclays Bank UK PLC have already made an offer to pay Mr P £441.03, plus 8% simple interest per year, from the date of payment to the date of settlement (minus tax lawfully deductible) to settle the complaint and I think this offer is fair in all the circumstances. So, my provisional decision is that Barclays Bank UK PLC should pay this amount to Mr P.

I asked Barclays and Mr P to reply by 7 June 2024 with anything they wished to add.

Barclays replied to say they had nothing else to add. Mr P's representative let us know he accepted my provisional 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.

Neither party had anything to else to add after my provisional decision, and Mr P has accepted it. So, I see no reason for my final decision to depart from my provisional decision.

My final decision

Barclays Bank UK PLC have already made an offer to pay Mr P £441.03, plus 8% simple interest per year, from the date of payment to the date of settlement (minus tax lawfully deductible) to settle the complaint, and for the reasons I've explained, I think this offer is fair in all the circumstances.

So, my final decision is that Barclays Bank UK PLC should pay this amount to Mr P.

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

Helen Sutcliffe
Ombudsman