

The complaint

Mr T complains that Barclays Bank UK PLC (“Barclays”) won’t refund in full money he lost when he fell victim to an investment scam.

Mr T is being represented by solicitors in this complaint.

What happened

The detailed background to this complaint is well-known to the parties and has been previously set out by the investigator. But briefly, Mr T fell victim to an investment scam in October 2023. He came across a cryptocurrency opportunity promoted by a company “G” on social media. After leaving his details, he was contacted by a representative who persuaded him to invest. Under the guise of guiding with trades, the scammer persuaded Mr T to download and grant access to remote access software. Mr T also took out loans to fund his deposits.

To facilitate the deposits, Mr T transferred money from his Barclays account to his existing account with “W”, an electronic money institution. Once the funds were received in W, he followed the scammer’s directions and made payments to purchase cryptocurrency. It was then sent to cryptocurrency wallets as instructed. At the time, Mr T thought the cryptocurrency had been deposited into his investment account, given its balance increased accordingly. It was later, when he requested a withdrawal and was asked to pay commission, that Mr T realised he’d been scammed.

When Barclays received a scam claim, only two transactions totalling £6,000 were listed. It refunded that amount as a gesture of goodwill. The bank later received a complaint from Mr T through his representative, and all the scam related transactions were disputed. Barclays refused to refund any of the remaining payments and the complaint was referred to our service.

One of our investigators looked into the complaint and concluded that Barclays didn’t need to take further action. They didn’t consider any of the transactions in dispute to be unusual or suspicious, given Mr T had previously made payments to his account with W. The investigator noted that Barclays did block one of the transactions, but Mr T told the bank that he was sending money to his family abroad.

Mr T didn’t agree with the investigator’s findings and asked for an ombudsman’s decision. So, the 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.

Under the Payment Services Regulations 2017 (PSR) and in accordance with general banking terms and conditions, banks should execute an authorised payment instruction without undue delay. The starting position is that liability for an authorised payment rests

with the payer, even where they are duped into making that payment. There's no dispute that Mr T made the payments, and so they are considered authorised.

But in accordance with the law, regulations and good industry practice, a bank should be on the look-out for and protect its customers against the risk of fraud and scams so far as is reasonably possible. If it fails to act on information which ought reasonably to alert a prudent banker to potential fraud or financial crime, it *might* be liable for losses incurred by its customer as a result.

I think it's important to note that Mr T's payments were going to a long-established payee. Just looking at the account statements for the 12 months preceding the first disputed transaction, I can see several transactions to his account at W. I acknowledge that there was an increased activity to W in October 2023, with larger amounts being sent. But that in and of itself doesn't mean that the payments ought to have flagged as unusual. Given what Barclays knew about the destination of Mr T's payment – his own account which he had frequently sent payments to – I don't think an increase in transaction amounts were *that* unusual such that Barclays should have contacted him sooner than it.

Even if I were to make a finding that Barclays ought to have taken additional steps during one of the earlier payments, I can't ignore the fact that when the bank did block a payment and discussed it with him, Mr T reassured Barclays that the everything was above board. He told them he was making the payment to his own account at W. And that he was sending it on to his family abroad, like he usually does.

I've listened to the relevant call recording and Mr T can be heard confirming to the agent that he sends money abroad to his family overseas regularly. So, had an intervention happened a few days earlier, on balance I'm not convinced that Mr T's response would have been any different. As the investigator pointed out, and I've seen myself, there's evidence of Mr T being coached by the scammer in the written correspondence that has been provided. Also, it's clear from the messages that the discussion wasn't limited to an exchange of written messages – there's suggestion that the scammer might have told Mr T what to say to his bank during a phone call they had.

In summary, given Mr T's specific response, his previous history of transferring money to W, and the fact that many people use W's services to make international transfers, I'm satisfied that Barclays took proportionate steps when it identified a scam risk. And I don't think further questioning would have positively impacted Mr T's decision-making.

I've carefully considered the comments Mr T's representative has made regarding his personal circumstances at the time of the payments which made him vulnerable. I'm sorry to hear about the difficult time Mr T was going through at the time. But I don't think it would be fair to tell Barclays to refund his loss when the bank couldn't reasonably have known about the vulnerability that has since been highlighted. Having listened to the intervention call, and some other calls from earlier that day, I can't fairly say that Barclays should have picked up on his state of mind from its interaction with him.

I realise that Mr T will likely be disappointed with this outcome. But for the reasons given, I don't consider Barclays acted unfairly in executing the payment instructions it received from him. So, I don't find it liable for his financial loss.

My final decision

For the reasons given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or

reject my decision before 9 January 2025.

Gagandeep Singh
Ombudsman