

The complaint

Mr C complains that Barclays Bank UK PLC have failed to refund £105,000 he says he lost to an investment scam.

Mr C is supported in making his complaint by a representative, but for ease, I'll only refer to Mr C in this decision.

The details of this complaint are well known to both parties. So, if there's a submission I've not addressed; it isn't because I've ignored the point. It's simply because my findings focus on what I consider to be the central issues in this complaint – that being whether Barclays was responsible for Mr C's loss.

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 agree with the conclusions reached by our Investigator, and for largely the same reasons.

It isn't in dispute that Mr C authorised a payment for £105,000 to a company (which I'll refer to as 'J'). Mr C says he was told 'J' was an experienced forex trader and by paying 'J' £105,000.00 as a private loan, he would achieve returns of 60% of his capital within 12 months.

The £105,000 payment was made in branch on 17 April 2019. Mr C has said he received no returns and has been unable to recover the invested funds. 'J' went into liquidation in December 2020 and Mr C thinks 'J' was a scam.

In line with the Payment Services Regulations 2017, consumers are liable for payments they authorise. Barclays is expected to process authorised payment instructions without undue delay. But Barclays also has obligations to help protect customers from financial harm from fraud and scams. Those obligations are however predicated on there having been a fraud or scam.

I'm sorry to hear of what's happened to Mr C, and I can understand entirely why he feels so strongly that this money should be returned to him. But not all cases where individuals have lost money are in fact fraudulent and/or a scam; and from the evidence I've seen, I think that applies in Mr C's case. I'll explain why.

Firstly, I appreciate there are ongoing investigations into 'J' as part of the liquidation process, with the matter having been reported to the police. But I must make a decision here based on the available evidence I do have, as well as the wider surrounding circumstances. And because I'm not aware of the nature or outcome of those investigations, I don't consider them to be a persuasive factor at this stage.

Typically, investment scams involve a fake investment and/or a fake company and generally, the victim has no prior relationship with the fraudster other than the relationship built to discuss the investment itself. In this case, Mr C had links to 'J' via a broker company whom he'd known since 2017; and had taken previous investment advice from. And Mr C received

correspondence direct from 'J' about the investment, including a loan agreement and a payment schedule for the returns on the £105,000 investment.

I'm unaware of any regulatory warnings (from the time of now) against 'J' to indicate it could be acting fraudulently. Also, 'J' is registered on Companies House, having been incorporated in May 2017, before entering administration in December 2020 and dissolved in July 2023. Mr C was also provided with genuine looking literature from 'J' about the investment.

Taking all this into account and based on the evidence that is currently available, I'm not persuaded that this situation displays the hallmarks most typically associated with a scam. The circumstances put forward by Mr C more likely lend themselves to an investment that went wrong with a company that ultimately ceased trading. It follows that, I can't safely say that this would likely meet the high legal threshold and burden of proof for fraud.

This is not to say that there is no issue at all between Mr C and 'J'. Clearly there is. But on balance, I haven't found the evidence shows Mr C was the victim of a scam.

I don't say any of this to downplay or diminish what Mr C has been through. He has my sympathy; in that he hasn't received the return on his investment as he thought he would. But overall, I don't think Barclays has treated Mr C unfairly by not refunding him the payment.

For completeness I've thought about what happened when the payment was made and whether Barclays missed an opportunity to prevent Mr C's loss.

I should first explain though that Barclays didn't have any specific obligation to step in when it received a payment instruction to protect its customers from potentially risky investments. The investment in 'J' wasn't an investment Barclays was recommending or even endorsing.

Barclays' role here was to make the payment that Mr C had told it to make. Mr C had already decided on that investment. And I find that Barclays couldn't have considered the suitability or unsuitability of a third-party investment product without itself assessing Mr C's circumstances, investment needs and financial goals.

Taking such steps to assess suitability without an explicit request from Mr C (which there wasn't here) would've gone far beyond the scope of what I could reasonably expect of Barclays in any proportionate response to a correctly authorised payment instruction from its customers.

Looking now at what happened when Mr C made the payment, he's said that no scam warnings were given, but Barclays' scam notes suggest otherwise. They record that there was an interaction with Mr C who said the payment was for a 'loan' and that:

'... he is happy that he has had no calls from Barclays or the police asking him to transfer the funds, he has verified the details and is happy to proceed'.

So, it would seem the payment purpose was discussed. But I've gone to think about whether further probing by Barclays during this interaction would've likely made a difference.

Mr C had genuine looking paperwork from 'J' and had agreed to the terms of the investment by signing a *'Confirmation of Understanding Form'* on 19 March 2019. He'd also been guided through the process by a trusted broker, he'd used previously, and had met with a representative of 'J' in person before deciding to invest. This would've all likely reassured Barclays that Mr C wasn't at risk.

Likewise, if Barclays had searched for 'J' at the time, it would've seen it was registered at Companies House and had no negative information about it, as I've mentioned above.

Furthermore, this was the second time Mr C had invested; having invested £50,000 in another company in February 2018. He wasn't therefore new to investing.

In summary, there isn't any reasonable basis on which I can say any further intervention by Barclays before processing the £105,000 payment was likely to have caused concern – as

essentially – there was no evidence to uncover that Mr C was in the process of being scammed.

So, taking all this into account, I don't think *any* intervention by Barclays before processing the £105,000 payment to 'J' is likely to have prevented Mr C's loss.

I appreciate this will likely come as a disappointment to Mr C, and I'm sorry to hear of the situation he's found himself in. However, in the circumstances of this complaint, I do not consider it would be fair and reasonable to hold Barclays responsible for Mr C's loss.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision **before 10 December 2024**.

Anna Jackson
Ombudsman