

The complaint

Ms H complains about Barclays Bank UK PLC.

She says that she has fallen victim to an investment scam and would like Barclays to refund her the money she has lost.

What happened

Ms H was introduced to a company (which I will call L) offering investment opportunity with which her friend was also investing and making profits. Ms H says that she conducted research online, and couldn't find anything negative about L.

Ms H's friend passed on her details to L, and contact was made.

After building a relationship and meeting in person, Ms H was persuaded to invest.

Between September 2022 and March 2023, Ms H made payments totalling £39,938.10 and received payments of £18,155.03.

However, things began to go wrong – and L explained that it was having issues with paying Ms H money.

Ms S complained to Barclays about what had happened, but it didn't uphold her complaint, so she brought it to this Service.

Our Investigator looked into things under the Lending Standards Board's Contingent Reimbursement Model ("CRM") Code, and said that on balance, they weren't persuaded that L was operating as a scam, but was a genuine company involved in e-commerce and helping other companies move stock.

Ms S didn't agree and asked for an Ombudsman to make a final decision, 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.

Having done so, I've decided not to uphold this complaint. I know this will be disappointing for Ms H, so I'll explain why.

It isn't in dispute that Ms H authorised the payments in question. Because of this the starting position – in line with the Payment Services Regulations 2017 – is that she is liable for the transactions. But Ms H says that she has been the victim of an authorised push payment (APP) scam. However, not every complaint referred to us and categorised as an investment scam is in fact a scam. Some cases simply involve high-risk investments that resulted in disappointing returns or losses.

Barclays has signed up to the voluntary CRM Code, which provides additional protection to scam victims. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam (except in limited circumstances). But the CRM Code only applies if the definition of an APP scam, as set out in it, is met.

I have set out the definition of an APP scam as set out in the CRM Code below:

...a transfer of funds executed across Faster Payments...where:

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.*

The CRM Code is also explicit that it doesn't apply to private civil disputes. The wording in the code is as follows:

"This Code does not apply to:

- b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."*

I've therefore considered whether the payments Ms H made to L fall under the scope of an APP scam as set out above. Having done so, I don't think that they do. I'll explain why in more detail.

In order to determine if Ms H been the victim of a scam, I have to consider if her intended purpose for the payments was legitimate, whether the intended purposes Ms H and L were broadly aligned and, if not, whether this was the result of dishonest deception on the part of the L.

It isn't entirely clear what the purpose of Ms H's investment was – or what the expected rate of return would be – and there isn't much information available about L either. However, from the information I have seen, it seems that L began experiencing cash flow problems when one of its suppliers went bankrupt and – and it wasn't able to fulfil orders as planned. L explained that it was having issues receiving and sending payments, and that its business account had been frozen, however it was paying out some of its investors, and others were in a queue waiting to be paid (which is supported by screen shots) and Ms H did receive some money back from her investment too, albeit not as much as she would have liked. Had L been operating as a scam, I wouldn't have expected to see Ms H receiving so much money from L – typically with a scam, a fraudster would disappear with funds, or pay only a small amount back to entice a consume to pay more, whereas Ms H received around half of her money back from L throughout the course of the relationship.

So, on balance, while it isn't complete clear what the investment was for, I think L's intended purpose for the funds broadly aligned with Ms S's, as it appears to have been operating as expected by fulfilling orders through ecommerce, and paying out investors, and nothing I have seen indicates to me that L intended to defraud her from the outset. Instead, I think it's more likely this was a failed investment, so I don't think it meets the definition of an APP scam. And I think Barclays acted reasonably when it treated the case as a civil dispute.

I should say that just because I don't think that L was operating as a scam, (and therefore Barclays doesn't need to refund her under the CRM code) that Ms H doesn't have legitimate

reasons to be aggrieved by what has happened – I understand that she is out of pocket, and this is clearly disappointing and worrying for her, but this isn't the fault of Barclays.

It is possible that further evidence may come to light at a later date, which may indicate L was operating a scam. Should such evidence come to light, then Ms H can complain to Barclays again, and refer the matter to this office, should she not be happy with the outcome.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 2 May 2025.

Claire Pugh
Ombudsman