

The complaint

Mr K complains Barclays Bank UK PLC won't refund money he lost to a scam.

What happened

The background to this complaint is well-known to both parties, so I won't repeat it in detail here. But in summary and based on the submissions of both parties, I understand it to be as follows.

Mr K complains that between October – December 2023 he sent 24 payments to what he thought was a legitimate job opportunity.

Mr K says he received a message via an instant messenger app from someone claiming to be from a recruitment company, offering him a remote working opportunity. After expressing his interest in the job, Mr K signed up. The job involved helping app developers optimise their apps rankings in search results. To do this, Mr K had to complete a set of tasks to generate positive reviews for the apps – which he would earn commission for. Some tasks however required him to top up his account with crypto, which Mr K was assured by the scammer that it, along with his commission, could later be withdrawn.

Mr K made 10 faster payments and 14 debit card payments totalling £70,939.37 to two legitimate crypto platforms – from where he sent the funds on to the scam. It was only when he asked to withdraw his profits that he realised he had been scammed, as he was removed from the messenger conversations and blocked from his account.

Mr K raised a complaint with Barclays who looked into what had happened, but didn't uphold it. They said they provided scam warnings for multiple payments, but Mr K chose to proceed allowing the scam to take place.

Mr K brought his complaint to our service and our investigator looked into the complaint but also didn't uphold it. He found that Barclays did intervene and spoke to Mr K, but he wasn't accurate with his responses to the questions asked. Our investigator also found that Barclays gave Mr K multiple warnings about cryptocurrency scams, but Mr K went on to send the money anyway.

Mr K didn't agree with the investigator's view. Because of this, 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.

I'm aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focused on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't

because I've ignored it. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I don't doubt Mr K has been the victim of a scam here – he has lost a large sum of money and he has my full sympathy for this. I'm also so sorry to hear of the impact this situation has had on his health and financial situation.

However, just because a scam has occurred, it doesn't mean Mr K is automatically entitled to be refunded by Barclays. It would only be fair for me to tell Barclays to reimburse Mr K for his loss (or a proportion of it) if I thought Barclays reasonably ought to have prevented all (or some of) the payments Mr K made, or that they hindered the recovery of the payments – while ultimately being satisfied that such an outcome was fair and reasonable for me to reach.

I've thought carefully about whether Barclays treated Mr K fairly and reasonably in their dealings with him, both when he made the payments and when he reported the scam, or whether they should have done more than they did. Having done so, I've decided to not uphold Mr K's complaint. I know this will come as a disappointment to Mr K and so I want to explain why I've reached the decision I have.

I have kept in mind that Mr K made the payments himself and the starting position is that Barclays should follow their customer's instructions. So, under the Payment Services Regulations 2017 (PSR 2017) he is presumed liable for the loss in the first instance. I appreciate that Mr K did not intend for his money to ultimately go to fraudsters – but he did authorise these payments to take place. However, there are some situations when a bank should have taken a closer look at the wider circumstances surrounding a transaction before allowing it to be made.

Considering the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and, where appropriate, what I consider to be good industry practice at the time - Barclays should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which payment service providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.
- Have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multistage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

Because of this, I've thought about whether the transactions should have highlighted to Barclays that Mr K might be at a heightened risk of financial harm due to fraud or a scam.

Barclays knew or ought to have known that Mr K's payments were going to a cryptocurrency provider. Losses to cryptocurrency fraud reached record levels in 2022 and by the end of 2022, many high street banks had placed restrictions or additional friction on cryptocurrency purchases because of the elevated fraud risk. So, by the time these payments took place, I think that Barclays should have recognised that payments to cryptocurrency carried a higher risk of being associated with fraud.

When making the initial payment of £20 on 31 October 2023, Barclays have said Mr K selected the payment reason as investment or cryptocurrency, and that this prompted a scam warning – which set out some of the techniques used by scammers and what he could do to protect himself. Mr K ticked a box to say he had read and understood the warning before proceeding to make the payment.

Following this, Barclays have shown a subsequent payment for £3,459.80 on 6 November was picked up by their fraud detection system. A scam conversation with Mr K took place and I have listened to this call. During the conversation, Mr K confirmed he was paying his own account, nobody else was involved, and nobody had told him to make the payment or what to say. The advisor warned Mr K about crypto scams and mentioned that the firm he was paying was not FCA regulated, meaning making the payment was a risk, to which Mr K said he knew and was fine with it. Mr K also said he had been investing for a long time and had found the investment himself.

On 14 November, during a call regarding the payment for £8,300, Mr K explained: he had been investing in crypto for five years, there was no broker, he wasn't part of any instant messenger group consisting of other investors, there was no third-party involvement and that he was happy for the payment to be released. The advisor also let Mr K know that there was remote desktop software on his computer and asked him to scan his computer to find out why he had it. Mr K said he would.

On 16 November, the payment for £4,230 was picked up, and once again, during a call Mr K provided the same answers as before, confirming he was the only one who had access to his crypto account, with nobody else involved, that he had been investing in crypto for five years and that nobody had told him what to say.

All of the above wasn't an accurate reflection of what was really happening. Barclays say that had Mr K told the advisor that he was making the payments to earn commission by completing tasks in which he had to fund by purchasing crypto, they could have advised him accordingly, and I agree. Had Mr K been open and honest with Barclays about the true circumstances of his payments then I consider they would've been able to identify he was likely falling victim to a job scam (as there were common hallmarks that unfortunately he didn't disclose to them). In turn, they would've been able to provide him with a tailored warning about this type of scam.

I've considered that Barclays shouldn't necessarily take a customer's instruction at face value, but they should consider the wider circumstances of a payment and the potential risks associated with it to be able to appropriately protect their customers. But here, I think Mr K's responses to Barclay's questioning would've reassured them that he was investing in crypto legitimately – as he denied any third party involvement and being coached to mislead or withhold information from his bank(s), he confirmed he was experienced with crypto and had undertaken research before investing, and he sounded very confident when answering their questions (demonstrated by his understanding of the crypto he said he was purchasing). I therefore don't think Barclays had enough reason to suspect that Mr K was likely falling victim to a scam. And because of this, I wouldn't have expected Barclays to have invoked Banking Protocol in these circumstances.

At which point, I should explain that I wouldn't expect Barclays' intervention to amount to an interrogation. Instead, they should look to uncover the underlying circumstances of a payment to establish if there is a risk of financial harm to their customer. Having listened to the calls, I consider the questions Barclays asked were appropriate and proportionate to identifiable risk at that time. I'm also satisfied that enough information was brought to Mr K's attention overall to put him on notice that there could be a risk of fraudulent activity. Unfortunately, Mr K decided not to act on the warnings or risks Barclays highlighted to him.

As Mr K did not provide accurate responses to Barclays questions, he denied them the opportunity to attempt to uncover the scam and prevent his losses. And while Barclays arguably should've also intervened on other payments Mr K made, on balance, and given how Mr K responded when he was questioned, I think it's most likely he would have misled Barclays and withheld the true purpose of the payments if questioned further. I see no reason to think he would've acted any differently – particularly as he remained consistent throughout the multiple conversations he had with Barclays.

I have also read through the extensive chat transcripts between Mr K and the scammer. It is clear that Mr K was heavily under their spell, making sure he transferred money and made payments in a way that would get them through. During his conversations with the scammer, Mr K did ask questions around why he was using his own money and how the recruitment company had got his number. But, regardless of him asking these questions, he believed what the scammer said and continued to make the payments in any way he could.

The scammer asked Mr K to send him screenshots throughout the scam journey. Mr K sent them and followed the scammer's instructions, even opening new accounts with different payment providers, and making smaller payments to avoid detection. Mr K himself also said that making larger transfers results in questions being asked, so sending smaller payments makes it faster. It is clear throughout that Mr K was heavily under the influence of the scammer and this therefore supports my assertion above that any further questioning wouldn't have been effective.

I am sorry to hear about the vulnerabilities Mr K has mentioned and for the impact this situation has had on him. This is definitely not something that I have overlooked when reaching my decision as I appreciate it is a lot of money to lose. However, I haven't seen anything to show that a vulnerability present at the time may have been impairing Mr K's decision-making during this scam. Nor has it been shown that Barclays were made aware of such a vulnerability at the time of the payments – thereby giving them greater reason to suspect he would be at greater risk.

Overall, having considered everything, while I appreciate that Mr K has been the victim of a cruel scam where, I can't say that Barclays is responsible for his loss. Because of this, I won't be asking Barclays to refund any of the money lost. I know this will come as a disappointment to Mr K, but I hope he can understand my reasons for the decision I've made.

Recovery

I couldn't reasonably expect Barclays to have done anything to recover Mr K's funds until he reported the scam payments. Unfortunately, as Mr K paid the money to wallets in his name and then moved the money on to the scammer, any attempt at recovery was hindered. I say this as Barclays would only be able to attempt recovery from where it sent the payments, and we know that money was no longer under Mr K's control. If it had been, he could've returned it himself.

In relation to the card payments, the chargeback process is relevant here. To explain, a chargeback isn't guaranteed to result in a refund as under the rules, a merchant can defend it if they don't agree with the request. We would also only expect a firm to raise a chargeback if it were likely to be successful. Based on the available evidence in this case, I believe it's more likely than not that any claim wouldn't have been successful.

I say this because in relation to the debit card payments, Mr K's disagreement is with the scammer and not with the crypto exchanges. It would not have been possible for Barclays to process a chargeback claim against the scammer, as Mr K did not pay them directly. Barclays could only have processed chargeback claims against the recipient of the payments, being the crypto exchanges.

It follows that I don't think Mr K had any reasonable prospect of success if Barclays were to have processed chargeback claims against the crypto exchanges because the payments were money orders. Once a money order is processed, the service is provided - that being the purchase of crypto, which Mr K then sent on to the scam. I'm therefore not persuaded Barclays could have successfully recovered Mr K's funds.

The Contingent Reimbursement Model Code

I note the Contingent Reimbursement Model Code has been mentioned by Barclays in this case. Although Barclays are signed up to the Contingent Reimbursement Model Code, the transfers Mr K made from his account aren't covered by the Code because he made the payments from his Barclays account to other accounts in his name - and not to another person. I cannot fairly and reasonably say that Barclays should have to refund the payments under the Code, because it doesn't apply here.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 9 June 2025.

Danielle Padden
Ombudsman