DRN-5292812

The complaint

Mr M has complained that Barclays Bank UK PLC ("Barclays") failed to protect him from falling victim to a cryptocurrency investment scam.

What happened

Earlier this month I issued a provisional decision ("PD") setting out why I was intending to uphold Mr M's complaint. I gave both parties a chance to respond, and as they now have, I'm in a position to issue my final decision.

I've included an extract of my PD below. Barclays agreed with my provisional findings and proposed settlement. Mr M provided some comments that I've included at the end of this section. I'll then go on to address them.

> **What happened**
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> The background of this complaint is already known to both parties, so I won't repeat all of it here. But I'll summarise the key points and then focus on explaining the reason for my decision.
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> Mr M says that in October 2023 he was introduced to an investment opportunity by a friend who had taken part and made some returns – although they also later realised they'd fallen victim to the scam. Mr M has also said he found out about the opportunity on the finance pages of a well-known news source. I'll refer to the alleged investment company as "Y".
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> Mr M says that he did some research on Y and found online information suggesting it was a legitimate company, including videos on investment strategies, a registration with Companies House dating back to 2013, and a positive article on a well-known financial news site. Y's professional-looking website and widespread media interest in cryptocurrency at the time further convinced him. Mr M explains that although he was an inexperienced investor, he saw this as a potential way to improve his financial situation.
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> Mr M downloaded Y's app from his mobile phone's App Store, believing the fact it was available must've meant it had some sort of credibility. He created an account, provided personal information as part of standard security checks, and was then able to access a platform that appeared to show live market trading. Mr M describes how the platform's layout and functionality gave him confidence in the opportunity.
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> Mr M joined a group chat for UK investors in Y, where he says hundreds of members discussed their profits. The group was run by administrators who shared advice and appeared highly knowledgeable, using technical financial terms that impressed Mr M. They emphasised that the more participants invested, the greater their returns would be.
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> As part of the scam Mr M made six payments to his own wallet at a legitimate cryptocurrency exchange. He then exchanged the funds into cryptocurrency, which he forwarded on to a wallet directed by an individual associated with Y, under the impression he was funding his investment.

Mr M's first deposit of £500 appeared instantly on the Y app, showing immediate gains. Mr M says that he was encouraged by these apparent profits and the group's enthusiasm, so he made further investments over the following days, totalling almost £6,000.

The payments Mr M made were as follows:

	Date and Time	Amount
1	18 October 2023 at 17:22	£500
2	18 October 2023 at 18:13	£1,000
3	18 October 2023 at 18:22	£2,000
4	18 October 2023 at 18:48	£1,525
5	21 November 2023 at 22:42	£712
6	21 November 2023 at 23:18	£18
	Total	**£5,755**

By late November 2023, Mr M's Y account showed significant profits, and he decided to make a withdrawal. But despite being told the funds would arrive within 72 hours, he didn't receive the funds in his account. Mr M says that around the same time he noticed people raising concerns in the group chat, although those people were being removed from the chat. The administrators then claimed Y had been hacked, instructing members to download a new app and pay a reinstatement fee.

At this point Mr M realised he'd been scammed. He ceased communication with Y and reported the scam to Barclays. Barclays didn't refund the scam payments.

Mr M made a complaint to Barclays on the basis that it failed to detect the scam or protect him from falling victim to it. Barclays didn't uphold Mr M's complaint, and in its response it noted that Mr M had made the payments to his own cryptocurrency wallet, which he'd received and been able to use. Barclays said it was at the point Mr M forwarded the cryptocurrency to the wallets directed by the scammer allegedly working for Y that the loss occurred, so it didn't agree that it was responsible for refunding Mr M's loss.

Mr M remained unhappy so he referred the complaint to this service.

Our investigator considered everything and didn't think the complaint should be upheld. She explained that Mr M had previously made six payments to the same payee, so it was an established payee on his account. She also said that although she thought Barclays could've given Mr M a better warning before he made the first payment, she didn't think that would've made a difference and prevented him from making it, as she noted he'd been introduced to the investment through a friend who'd successfully been able to withdraw money from it. She also said Mr M had downloaded a trading app from his mobile phone's official app store, which would've added to the perceived legitimacy of the investment opportunity.

Mr M didn't accept the investigator's opinion. He pointed out that he wasn't in fact introduced to the investment by a friend. He also said Barclays should've considered the wider circumstances of the payments, as opposed to taking his instructions to make them at face value.

As the case hasn't been resolved it's been passed to me to make a decision.

What I've provisionally 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 reached a different outcome to our investigator and I currently think Mr M's complaint should be upheld. I'll explain why.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer’s account. And in this case it’s not in question whether Mr M authorised these payments from leaving his account. It's accepted by all parties that Mr M gave the instructions to Barclays and Barclays made the payments in line with those instructions, and in line with the terms and conditions of Mr M's account.

But that doesn’t always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won’t result in harm.

All of the payments Mr M made were to a well-known cryptocurrency provider. So I think Barclays could and should have identified that the transactions carried an elevated risk of fraud, as by the time they were made in October and November 2023 cryptocurrency-related payments were widely recognised as presenting a heightened risk of fraud and scams.

By October 2023, Barclays, like other firms, should also have been aware of the increased risk of multi-stage scams involving cryptocurrency. Fraud involving cryptocurrency has risen sharply over time, with consistent warnings from regulators such as the FCA and Action Fraud since 2018, and record losses were reported by 2022. By the end of 2022, many high street banks had begun imposing blocks or friction on cryptocurrency transactions due to these risks.

So, considering the above I’m satisfied that by the time Mr M made the payments in October and November 2023, Barclays ought fairly and reasonably to have recognised that he could’ve been at an increased risk of fraud when using its services to purchase cryptocurrency, notwithstanding that the payment would often be made to a cryptocurrency wallet in the consumer’s own name.

How did Barclays intervene?

When Mr M made the first payment to the scammers, Barclays displayed an on-screen warning about the risks of cryptocurrency scams. This included advice to check the FCA’s ScamSmart website, a caution about investing in cryptocurrency, and a reminder not to continue if someone else had control of his digital wallet. The warning also suggested speaking to a financial adviser if an offer seemed too good to be true.

To proceed with the payment, Mr M was required to tick a box confirming that he had read the warning, conducted checks on the payment and payee, and understood the risk of losing his money if it turned out to be a scam. I consider this warning sufficient for the first payment, given the relatively modest size of it, and the fact there was not yet an emerging pattern or trend that ought to have caused it concern.

But when Mr M made the subsequent payments to the same payee, Barclays didn’t intervene again – so it didn’t ask any more questions or show any further warnings. Barclays says this is because the payee had become established. Mr M was then able to proceed with three further payments on the same day as the first, without intervention.

Should Barclays have done more to intervene, and if so, how?

By the time Mr M made payment four, Barclays should’ve done more to intervene. At that point he’d made four payments within 90 minutes, totalling £5,025, including three payments of over £1,000 each within an hour. The rapid and high-value nature of these transactions, as well as the fact they were being made to a cryptocurrency platform, should’ve prompted Barclays to take action to protect Mr M from potential financial harm.

When Mr M attempted to make payment four Barclays should’ve asked him further questions to narrow down the purpose of the payment. Tailored questioning could’ve uncovered that the funds were intended for a cryptocurrency investment, and following this, Barclays could and should've provided Mr M with a clear and specific warning about the risks of cryptocurrency investment scams.

Although our investigator thought that a warning was unlikely to have resonated with Mr M because the investment was introduced through a friend, I don't agree. There's been some disagreement around how the investment was introduced to Mr M, as he initially told Barclays it was introduced by a friend, but he later told this service he discovered it himself online. It's fair to say he might've initially been inclined to trust Y more based on the recommendation, but that doesn't mean a warning wouldn't have been effective, particularly if it was tailored and emphasised the dangers of the specific scenario Mr M was in. And so I think it's likely Barclays could've prevented the scam, and as it didn't take action to do that, I think it's responsible for Mr M's losses from payment four onwards.

It's worth noting that Mr M made six payments to the same cryptocurrency platform, totalling £14,793 in February 2021. So whilst I agree the payee's details were likely saved on Mr M's account, the payments that formed part of this scam were made over two years later than the previous ones, and Barclays shouldn't have relied on past behaviour to assume there was no increased risk when Mr M made the payments from October 2023 onwards. Between February 2021 and October 2023 the cryptocurrency landscape had evolved significantly, with scams becoming increasingly sophisticated. Barclays should've recognised that heightened risk and taken steps to intervene appropriately.

Is Mr M responsible for any of his losses?

I've considered whether Mr M should be held responsible, or partly responsible, for any of his losses.

Contributory negligence might apply when a customer's actions have, to some extent, contributed to their financial loss – for example if they ignore clear warnings or act recklessly despite obvious signs of risk. In such cases, I might decide it's fair to for the responsibility to be shared between the parties.

But in Mr M's case, I haven't seen evidence that he ignored warning signs or acted unreasonably. Before proceeding with the investment Mr M took sensible steps to reassure himself that it was legitimate. He checked the company's registration with Companies House and reviewed financial commentary related to the business. In addition, the investment was recommended by a friend, which as I've said previously, understandably added to his confidence.

While it might be argued that Mr M could've done more to verify the investment with Y, given his limited experience in investing, I'm satisfied that his actions were appropriate and don't justify reducing the refund on the grounds of contributory negligence.

Recovery of the funds

I've seen evidence that Barclays contacted the receiving bank when Mr M reported the scam, in December 2023, but it was advised that no funds remained in the beneficiary's account.

As Mr M had access to the funds in his own cryptocurrency wallet before converting them into cryptocurrency, I don't think Barclays could've done any more to recover what Mr M lost, as it appears the loss was made when he forwarded the cryptocurrency on to the wallets as directed by the scammer.

Having considered everything I think Barclays ought to have done more to protect Mr M from the scam he fell victim to, and it ought reasonably to have uncovered the scam before Mr M made the fourth payment. So I'm currently intending to uphold the complaint from that point.

In response to my PD Mr M raised the following points:

- Barclays should have provided better warnings, even for the first payment. The on-screen warning didn't specifically mention cryptocurrency scams, and no warnings were displayed for payments two, three, and four, which were made within 90 minutes, totalling £5,025.
- By October and November 2023, cryptocurrency payments were widely recognised as carrying a high risk of fraud, especially following the Consumer Duty changes in July 2023. Barclays should have recognised this and provided stronger, more specific warnings after the first payment.
- Barclays should have introduced blocks or friction on cryptocurrency transactions due to the risks involved. After the first payment, they should have contacted Mr M or blocked further payments to prevent the scam.
- Mr M requested Barclays refund from the second payment and not the fourth, as he says Barclays could have done more to protect him.
- Mr M asked that interest is donated to charity instead of paid to him.
- Mr M reiterated that Barclays failed to keep him updated in writing between 1 February and 18 March, despite his requests for it to summarise what was discussed during calls.

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 considered everything again, including Mr M's response to my PD, I haven't reached different conclusions. But I've added some additional commentary to address the points Mr M raised.

In my provisional decision, I explained why I thought Barclays should refund Mr M from payment four. This was because the payment was made to a cryptocurrency-related business and because of the amount and the pattern of payments. There's a fine line between unnecessarily inconveniencing customers by assuming all cryptocurrency-related transactions are fraudulent, and a business stepping in when it suspects fraud. In Mr M's case, I'm satisfied that Barclays' an intervention at payment four would've been appropriate, and although every case is unique and decided on its own merits, this approach is consistent with this service's approach to cryptocurrency scams similar to that seen here.

I acknowledge Mr M's view that Barclays should have provided more specific warnings or introduced further friction after payment one. But I'm satisfied that the steps Barclays took before payment four, including the warning provided, were proportionate and in line with what I'd have expected of the bank at the time. Although I acknowledge there were further payments after payment one and before payment four, the cumulative value of those payments was such that I'd have expected Barclays to intervene every time, until it had further reason to do so.

Mr M has also requested that interest not be included in the refund. I agree that Barclays doesn't need to pay interest in this case, and it may choose to make a donation to charity instead if it wishes.

Finally, I note that Barclays sent its Summary Resolution Communication ("SRC") document to Mr M on 1 February 2024, at which point he was informed of his right to refer the complaint to this service. The issue of Barclays' communication after 1 February 2024 doesn't appear to have been raised directly with Barclays before being brought to me, so I can't consider this part of the complaint as Barclays hasn't had an opportunity to address it first.

For the reasons set out above and in my provisional decision, I remain satisfied that Barclays needs to refund Mr M from payment four onwards.

I hope my explanation has helped Mr M to understand why I won't be asking Barclays to refund payments two or three and that he can take some reassurance that as an independent person I've considered everything carefully and this is a fair and consistent approach to this type of complaint.

Putting things right

To put things right Barclays needs to:

- Refund the payments Mr M made from (and including) payment four.
- Barclays doesn't need to pay interest on this amount. Barclays may choose to donate the equivalent amount to charity if it chooses to do so.

My final decision

I uphold Mr M's complaint against Barclays Bank UK PLC and require it to do what I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 February 2025.

Sam Wade
Ombudsman