

## The complaint

E complains that Barclays Bank UK PLC didn't protect them from an investment scam.

E is being supported in making their complaint by a representative. But for ease, I'll only refer to E in this decision.

## What happened

E explains that they were looking for an investment opportunity to enhance their pension and were introduced to an investment in a company (who I'll refer to here as 'H') by a family member who was a financial advisor. E said the family member had worked for many years with a broker company (who I'll refer to here as 'S'). And that 'S' had already invested in 'H'.

E said they believed they were investing pension funds in a safe investment to provide a better future income. They said they communicated with 'S' throughout the investment and liquidation period.

E also used 'S's services to set up another investment. And has said they believed the investment in 'H' was protected by an umbrella pension trust.

E understood the terms of the investment in 'H' to be monthly returns of 5%, with the capital returned in 12 months.

Other companies (which I'll refer to here as 'P' and 'M') facilitated the transfer of the funds E was investing in 'H'.

E made the following online payments as part of the investment:

Date	Amount
7 March 2018	£30,000
12 June 2018	£4,500
2 October 2018	£5,175
16 January 2019	£5,951.25
<b>Total</b>	<b>£46,626.25</b>

E received monthly returns on their investment from April 2018 until January 2019 totalling £18,626.25.

'H' and 'P' went into liquidation in June 2019 and March 2020 respectively.

On 11 July 2024 E made a complaint to Barclays. In short, they said they'd been the victims of a scam, and that Barclays hadn't done enough to protect them. E therefore held Barclays responsible for their loss. They wanted Barclays to refund them, together with 8% interest and £1,000 for the distress and inconvenience caused.

Barclays didn't believe E had been the victims of a scam, given they'd received returns on the investment. Barclays said it appeared E's loss was due to the performance of 'H', and so it considered this to be civil dispute.

E referred their complaint to the Financial Ombudsman.

One of our Investigators considered the complaint. In terms of the March and June 2018 payments, she said the Financial Ombudsman was unable to consider them. This was

because they'd been made more than six years before E raised a complaint with Barclays. And that E ought reasonably to have known they had cause for complaint more than three years prior to them complaining. Our Investigator also didn't think this delay was due to exceptional circumstances.

Our Investigator went on to consider the merits of E's complaint in relation to the October 2018 and January 2019 payments. Essentially, she didn't think Barclays should've been overly concerned about the payments but accepted there was some basis to say it should've still asked E about the purpose of the payments before processing them.

But given there was no adverse information about 'H' or 'P' available at that time, and because the investment had been introduced to E by a trusted family member, our Investigator didn't think further questioning by Barclays would've given it or E any obvious cause for concern.

Our Investigator also thought there was no reasonable prospect of Barclays being able to recover the lost funds, nor did she think Barclays needed to pay E any compensation.

E didn't agree. In summary, they said it wasn't until January 2021 that they had reason to believe they had cause for complaint. So, it thought the Financial Ombudsman could consider the March and June 2018 payments, and that we should do; given those payments formed part of E's loss.

In terms of the October 2018 and January 2019 payments, E said Barclays should've flagged these as suspicious. They said Barclays should've questioned them about the payments and reviewed the investment in 'H' to verify its legitimacy. It said 'H';

*'was not merely a "legitimate" investment at the time of the payments but a fraudulent scheme disguised as one. The failure to properly assess the risk of these payments effectively enabled the scam'.*

E went on to say that the fact they were introduced to 'H' by a trusted family member and that returns had been received on the investment doesn't *'absolve'* Barclays' responsibility to protect them from financial harm. E said Barclays should've warned them about the *'unregulated'* nature of the investment and the risk this presented – which would've enabled them to make an informed decision as to whether to proceed. E added that they made the payments:

*'in good faith and under false pretences, and we believe that Barclays' failure to properly assess the situation and intervene contributed significantly to [their] financial loss'.*

Our Investigator replied and maintained her opinion that the March and June 2018 payments had been made too late. She also reiterated her view that intervention by Barclays in the later payments was unlikely to have made difference.

E made no further arguments as to why we should consider the 2018 payments but still believed Barclays could've prevented their loss in relation to the later payments. E said:

*'Even if no negative information was available at the time, the size and nature of the transfers warranted more thorough questioning or at least a basic inquiry to mitigate potential risk'.*

I've been asked to review everything afresh and reach a final decision.

### **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 it. I know this is not the answer E was hoping for and so this will come as a disappointment. I'm really sorry to hear about the situation they've

found themselves in, and I can understand why they'd want to do all they can to recover the money they lost. But I need to decide whether Barclays can fairly and reasonably be held responsible for E's loss. Overall, I've decided that it can't be. I'll explain why.

But first, I would like to say that I've considered this case on its own merits and have summarised it in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. It's simply because my findings focus on what I consider to be the central issues in this complaint – that being whether Barclays could've prevented E's loss.

Our Investigator has already explained to E why the Financial Ombudsman can't consider the March and June 2018 payments, and E appears to now accept our position here, so I won't repeat our Investigator's reasoning. But to reiterate, by E's own admission, they became aware they had cause for complaint in January 2021, after receiving information from 'S' about 'H' going into liquidation. This was more than three years before E complained to Barclays (July 2024), and so I'm satisfied E's complaint about the March and June 2018 payments has been made outside of the relevant time limits.

My decision is therefore *only* considering the actions of Barclays in relation to the payments made on 2 October 2018 and 16 January 2019. I have however taken account of the March and June 2018 payments as part of the wider surrounding circumstances of this complaint.

Following a court hearing in July 2020, it's now accepted that E have likely been the victims of a scam. But I accept the transactions they made towards the investment were authorised payments. So, E are presumed liable for the loss in the first instance.

However, I consider that as a matter of good industry practice at the time (and now) that a bank, such as Barclays, ought to have taken steps to intervene prior to processing a payment instruction where it had grounds to suspect a payment might be connected to a fraud or a scam. Any such intervention should've been in proportion to the level of risk perceived.

The question then arises whether Barclays ought reasonably to have held such suspicions or concerns in relation to E's payments - and if so, what might've been expected from a proportionate intervention.

So, taking all of this into account, I need to decide if Barclays acted fairly and reasonably in its dealings with E when they made the payments. Specifically, whether it should've done more than it did before processing them – and if it had, would that have made a difference. I also need to decide if Barclays could've reasonably recovered the lost funds.

I agree with our Investigator and E that arguably, there was some justification here for an intervention by Barclays prior to processing E's £5,175 payment instruction on 2 October 2018. This was larger than usual payments for E's account in the previous 12 months and was being made to a different payee ('M') than the payments made towards the investment in March and June 2018, which were made to 'P'.

But for me to find it fair and reasonable that Barclays should refund E requires more than a finding that Barclays ought to have intervened.

I would need to find not only that Barclays failed to intervene where it ought reasonably to have done so - but crucially, I'd need to find that but for this failure the subsequent loss would've been avoided.

That latter element concerns causation. A proportionate intervention will not always result in the prevention of a payment. And if I find it more likely than not that such a proportionate intervention by Barclays wouldn't have revealed the £5,175 payment was part of a fraud or scam, then I couldn't fairly hold it liable for not having prevented it from being made.

In thinking about this, I've considered what a proportionate intervention by Barclays at the relevant time would've constituted, and then what I think the result of such an intervention would most likely have been.

To reiterate, Barclays' primary obligation was to carry out E's instructions without delay. It wasn't to concern itself with the wisdom or risks of their payment decision.

In particular, 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 'H' wasn't an investment Barclays was recommending or even endorsing.

Barclays' role here was to make the payments that E had told it to make. E had already decided on that investment; and had transferred £34,500 towards it. And I find that Barclays couldn't have considered the suitability or unsuitability of a third-party investment product without itself assessing E's circumstances, investment needs and financial goals.

Taking such steps to assess suitability without an explicit request from E (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.

That said, I think it would've been proportionate here for Barclays, as a matter of good industry practice, to have taken steps to establish more information about the £5,175 payment.

What matters here is what those steps might be expected to have uncovered at the time. While there may now be significant concerns about the operation of 'H', and the legitimacy of the investment, I must consider what Barclays could reasonably have established during a proportionate enquiry to E about their payment back in October 2018. I cannot apply the benefit of hindsight to this finding.

Both 'H' and 'P' were genuine companies and there was no negative information about 'H' in the public domain until *after* it went into liquidation (June 2019). Having carefully reviewed all the material E has provided about 'H' and 'P', it appears that allegations that 'H' was operating as a scam *only* came to light during the liquidation process which included a court hearing in 2020. As such, this correspondence or information couldn't have been accessed by either Barclays or E at the time the October 2018 payment was made.

I think it's also likely E would've told Barclays that they had already invested funds in 'H' and were receiving the promised monthly returns. Further, E has said Barclays should've warned them about high-risk unregulated investments. But communication from 'S' indicates that both it and the investment in 'H' were unregulated – so E had been made aware that the investment in 'H' offered limited protection. And E was under the impression their investment in 'H' was 'low risk' as it was protected by the pension trust scheme and said it was:

*'supported by an Umbrella Pension Trust ... we were told this umbrella scheme was under pinned by several millions of pounds to protect our investment ... [We] thought that this protected [our] money and that the investment was safe and genuine'.*

None of this absolves Barclays of its responsibility to protect E, but I'm persuaded that this information would've all been reassuring to Barclays and E, and in my opinion, makes it less likely that *any* warning Barclays might've provided to E about unregulated high-risk investments would've resonated with them, as they now claim. But even if E *had* been prompted by Barclays to carry out more checks into 'H' or 'P' – I think it's very unlikely they'd have found anything of concern.

It's also worth mentioning that the £5,175 payment was being made to 'M' – a payment processor for 'P'. E was told about this change of payee, and the reasons for it, by 'S' shortly before this payment was made. 'M' was also a legitimate registered company. This, I believe, would've all further reassured E (and Barclays) at the time that the investment in 'H' was genuine.

In summary, I've considered everything submitted and the arguments made, but while there may now be concerns about the legitimacy of 'H' and 'P', everything I've seen indicates that those concerns only began to surface in the public domain after the payments were made by

E. And so, I don't agree with E that further questioning by Barclays about the £5,175 payment would've uncovered anything untoward about the investment in 'H' at that time.

I've thought next about how E found out about the investment. E was introduced to 'H' via a family member, who then put her in touch with 'S', an unregulated broker.

So, had Barclays asked E who'd advised them about the investment, then the involvement of 'S' would've likely come to light at the time. But this type of unregulated investment could be entered into without obtaining regulated financial advice; and might be made available to clients of an unregulated adviser (as E were).

So, the status of 'S' and the investment weren't something that would necessarily have indicated 'H' was fraudulent (or that the investment was a scam) at the time E asked Barclays to make the £5,175 payment.

Further to that, I've not seen any evidence to suggest E ever doubted the information they were being given by 'S'. They've said 'S' had invested in 'H' before and that they used 'S' for another investment. E has also said they:

*'believed in the investment with ['S'] firstly as the recommendation was from a good source in my [family member] and that ['S'] had invested in ['H'].*

E clearly had trust in 'S' and its endorsement of 'H'. Because of this, together with the relationship between 'S' and E's family member, and because E had used its services for another investment, I don't think, on balance, that any advice or warning from Barclays about the involvement of 'S' would've likely resonated with E or given them any cause for concern. And any concerns that might've been raised with E about 'H' or 'P' would've likely, in my opinion, have been allayed by 'S' or the family member.

All things considered; I don't think it would've been readily apparent in October 2018 that 'H' might be fraudulent rather than a higher risk investment. Again, circumstances around how E found out about the investment in 'H' doesn't in any way negate Barclays' role to protect E from financial harm. But I simply don't think Barclays could've uncovered information – especially through proportionate enquiry in response to a payment – that would've led to significant doubts about the legitimacy of 'H' at that point in time. Neither do I think E could've uncovered such information at the time – they weren't at fault here.

To recap, I can only reasonably expect any intervention or enquiries made by Barclays to have been proportionate to the perceived level of risk of 'H' or 'P' being fraudulent. I don't think that a proportionate enquiry in October 2018 would've led to either Barclays or E considering 'H' or 'P' being anything other than legitimate. With that in mind, and all considered, I'm not persuaded that Barclays was at fault for carrying out the relevant payment instructions, or for not preventing E from making their payments.

In terms of trying to recover the lost funds; I'd expect Barclays to attempt this at the point it's alerted to the loss. But more than five years had passed by the time E contacted Barclays. Furthermore, both 'H' and 'P' had gone into liquidation by this point and recovery from 'M' wasn't possible as it was acting as a payment processor for 'P'.

Therefore, I can't say Barclays had any reasonable prospect of recovering the funds in 2024 given the passing of time; and because 'H' and 'P' had gone into liquidation more than four years before.

I have a great deal of sympathy for E and the loss they've suffered. But it would only be fair for me to direct Barclays to refund their loss if I thought it was responsible – and I'm not persuaded that this was the case. And so, I'm not going to tell it to do anything further.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask E to accept or reject my decision **before 22 May 2025**.

Anna Jackson  
**Ombudsman**