

The complaint

Ms D complains that Barclays Bank UK PLC won't refund money she lost when she was the victim of an investment scam.

Ms D is being supported in her complaint by a representative, but for ease, I'll refer to Ms D in this decision.

What happened

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

In or around August 2023 Ms D saw an investment advert online. After making enquiries, she was contacted by an account manager (the scammer) from an investment company (which I'll refer to here as 'I').

Ms D said she carried out checks into 'I' and found its website to be professional. She understood that she would be investing in forex, shares, currency, and oil and that she would get daily returns of 3%.

Between 9 October 2023 and 9 January 2024 Ms D made 51 card payments towards the investment ranging from £83.14 to £8,425.92 (totalling £130,321.50) via legitimate crypto exchanges.

Ms D also made payments towards the investment from an account she held with an Electronic Money Institution (which I'll refer to here as 'R'). Barclays spoke to Ms D on 12 and 30 October and 9 November 2023 about the payments.

Ms D received returns on 21 September 2023, 2 October 2023, 19 October 2023, 21 November 2023 and 8 December 2023.

Ms D said she tried to make withdrawals, but these were unsuccessful. And that the scammer told her she needed to pay more funds to increase her trades before eventually stopping communication with her.

Ms D raised a claim with Barclays, and it asked for more information to allow it to investigate. She then referred her complaint to the Financial Ombudsman.

Essentially, Ms D said if Barclays had appropriately probed her about the payments, then the scam would've been uncovered, and she wouldn't have suffered the loss she did. Because of this, Ms D wanted Barclays to reimburse her loss from the scam – along with 8% simple interest.

One of our Investigators considered Ms D's complaint but didn't uphold it. In short, she thought Barclays should've recognised that Ms D was at risk of financial harm and asked her more about the payments than it did – including the possibility of invoking the banking protocol. But on considering how Ms D had responded to Barclays when it spoke to her and what happened when 'R' questioned Ms D, our Investigator didn't think any proportionate intervention by Barclays would've resonated with Ms D, and that she would've therefore continued making the payments. Our Investigator also didn't think there was any recourse to recover the loss funds.

Ms D didn't agree. Essentially, she agreed with our Investigator that Barclays should've done more to warn her. And that her case needed to be considered in line with what the Financial Ombudsman expects in cases like this – around providing tailored warnings to well-known scam types and holding a customer's answers when questioned about a payment to a *'reasonable level of scrutiny'*.

Ms D didn't think the interventions by Barclays or 'R' were proportionate given how obviously concerned they were having stopped numerous payments. And because those interventions weren't proportionate, Ms D said she didn't fully understand the importance or overall meaning of them; and shouldn't therefore be penalised for that, or for the responses she provided.

Ms D also said she had no intention to mislead Barclays and provided honest answers and hadn't been provided with a cover story which would've prevented the scam being uncovered. And that our Investigator shouldn't have relied on what happened when she was questioned by 'R' as she thought her responses were *'clearly concerning did not provide any meaningful comfort ... that the payments were genuine'*.

Ms D also said that the banking protocol was a proportionate intervention here – given the size, frequency, and destination of the payments. She added that:

'had banking protocol been invoked, the presence of the police would surely made [her] understand the significance of the conversation and that the bank intends to protect [her] rather than merely go through a generic questionnaire to avoid liability'.

Ms D concluded by saying she had no experience of crypto and:

'had Barclays intervened to the appropriate standards given the astronomical fraud risk presented ... the scam would have been exposed'.

The matter 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 very sorry Ms D has been the victim of a scam and I'm sympathetic to the impact this matter has had on her - as I appreciate this is a significant sum she has lost. But I must consider whether Barclays is responsible for the loss she's suffered. Having done so, and while I realise this isn't the outcome Ms D is hoping for, for similar reasons as our Investigator, I don't think it is. Because of this, I don't think Barclays acted unfairly by not refunding the payments. I'll explain why.

Before I do, I want to reassure Ms D that I've considered everything she's submitted. And so, while I've summarised this complaint in far less detail than what has been provided, I want to stress that no discourtesy is intended by this. If there is 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 issue in this complaint – that being whether Barclays is responsible for the loss Ms D suffered to the scam.

For context and background, in reviewing Ms D's complaint, I've taken account of the evidence presented in her complaint against 'R'. But my findings in this decision relate *only* to the actions of Barclays.

In broad terms, the starting position in law is that Barclays is expected to process payments that its customer authorises it to make. It isn't disputed that Ms D knowingly made the payments from her account – albeit under the direction of the scammer – and so, I'm satisfied she authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of her account, Barclays are expected to process Ms D's payments, and she is presumed liable for the loss in the first instance.

But, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in October 2023 that Barclays should:

- have been monitoring accounts and any payments made or received to counter various risks, including 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 firms are generally more familiar with than the average customer;
- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment;
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage 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.

So, the starting point here is whether the instructions given by Ms D to Barclays (either individually or collectively) were unusual enough to have expected additional checks being carried out before the payments were processed. Further to that, where there is an interaction between a customer and a bank before a high value payment is processed, as there was here, I'd expect the bank to take reasonable steps to understand the circumstances of that payment.

As our Investigator has already explained, Barclays missed an opportunity to ask Ms D more about a £3,000 payment she attempted to make on 12 October 2023 (processed on 13 October 2023). This was the fourth payment Ms D has made relating to crypto over four days: making a collective total of £8,000. And at the time this payment was made, there was a high prevalence of multi-stage crypto investment scams using legitimate crypto exchanges as a step to defraud customers. And so, I agree with our Investigator that Barclays should've done more here.

I also agree with our Investigator, and Ms D, that the action Barclays should've taken needed to be tailored to well-known scam types – in this case crypto investment scams. And that Barclays should've asked probing questions of Ms D about the £3,000 payment to satisfy she wasn't at risk of financial harm.

But for me to find it fair and reasonable that Barclays should refund Ms D requires more than a finding that Barclays ought to have intervened in the 13 October 2023 £3,000 payment.

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 payment was part of a fraud or scam, then I couldn't fairly hold it liable for not having prevented it from being made.

I don't know for sure how Ms D would've responded to a proportionate intervention by Barclays, and so I must think about what is most likely to have happened, on the balance of probabilities. In doing that, I've thought very carefully about the wider surrounding circumstances of Ms D's case, including what she understood about the investment at the

time, her relationship and trust in the scammer, and how she responded when questioned by both Barclays and 'R'.

Ms D was speaking with the scammer over WhatsApp almost daily between August 2023 and January 2024 (but has only been able to provide the chat history up till December 2023). Ms D would prioritise that contact around her working day to ensure she wasn't missing out on the best trades. She also regularly asked the scammer for advice on buying the crypto, accessing her trading account and making withdrawals. And has said she believed the scammer was:

'... genuinely helping .. and guiding [her] to gain as much profit as possible as they demonstrated great knowledge about the investment'.

Such was the social engineering deployed by the scammer, that he and Ms D would chat extensively about their interests and work lives and arranged to meet up in the New Year because she was seen as a such a *'valuable client'*. Ms D showed immense gratitude towards the scammer for all he was doing for her and the success she was having. She said:

'thank god and you of course ... you are almost god'.

And whilst Ms D has said she wasn't coached by the scammer as to what to say if Barclays questioned her about the payments, there are some discussions where she airs her frustrations at payments being stopped, and on 30 October 2023, she tells the scammer she is on the phone to her bank – to which he replies:

'Just tell yourself I'm buying and that's it'.

Taking all this into account, I think Ms D was so under the scammer's spell that any advice or warnings that Barclays might've given her about crypto investment scams would've likely been allayed by the scammer, or she'd have sought his advice as to how to respond. Further to that, I've not seen any regulatory warnings about 'I' at the time Ms D made the payments, and she has said herself that the reason the investment seemed genuine to her was because she:

'... performed the numerous checks before [she] invested ... finding nothing negative. [She] also reviewed ['I']'s professional website, which was sophisticated and operated smoothly, showing fake real-time returns'.

By the time of the 12 October 2023 payment, Ms D had also received two returns on the investment – reinforcing her belief it was genuine. And based on what she'd seen already, even if Barclays had advised Ms D to carry out further checks in to 'I', I'm not persuaded that she'd have found anything of concern.

I've looked next at how Ms D interacted with Barclays. Whilst I accept Barclays' telephone interactions with Ms D weren't proportionate to the financial risk her payments were displaying – I've listened to those calls in helping me decide, on balance, if a proportionate intervention by Barclays would've likely uncovered the scam and prevented Ms D's loss.

Ms D's overall demeanor is dismissive and she thinks that Barclays is wasting her time. She's consistent and confident in her responses that no one has asked her to move her money – nor that she has been told what to say if questioned by the bank. I appreciate Ms D's point that the inadequacy of the warnings meant she didn't fully understand the significance of Barclays' apparent concern – hence her obvious frustration. But aside from that, she doesn't come across in the calls with Barclays as someone who is willing to openly disclose what they're using their money for.

This pattern of behaviour is replicated during Ms D's interactions with 'R'. She consistently maintains that no one is guiding her to make the payments – and that it is her decision to buy crypto for herself and she knows what she's doing. And she thinks 'R' are being unfair to her, threatening to make a complaint, and saying it's not R's business how she spends her money. And so again, Ms D gives no impression she recognises that 'R' are in any way

trying to protect her, and in fact, she specifically says she will sign a disclaimer to consent to any possible loss and wants a note made that no more transactions will be stopped.

Ms D's situation had many hallmarks of a crypto investment scam. A third party guiding her, the setting up of several different crypto accounts, payments increasing in value and being made in very close succession. And I agree with Ms D that Barclays likely had some concerns given it contacted her three times – and as I've already explained, it should've asked her specific questions relating to crypto investment scams.

But 'R' made it clear to Ms D on several occasions that she was at risk of financial harm; and she herself says to one of 'R's advisors that 'R':

'has warned me that this is likely a scam, and unlikely to recover my funds if I proceed with this'.

On another occasion 'R' says to Ms D:

'We believe that transfer is suspicious and there is a high probability that this payment is a scam. You risk losing money we may not be able to recover. Is the recipient pressuring you to act quickly at risk of missing out on an investment opportunity?'

Despite it being evident in the chat between Ms D and the scammer that she is being pressured to invest, Ms D says:

'It is not'

'R' also asks Ms D what her promised monthly returns were and if they were too good to be true, to which she confirms it was *'all good'*.

'R' also says to Ms D:

'It seems like this isn't a case where someone is instructing you what to do, which can be a red flag for scams. Could you confirm that you aren't being guided to make this transaction in any way?'

Despite Ms D saying her belief in the investment was partly based on the fact the scammer was guiding and helping her through the process, she replies to 'R' by saying:

'Confirm' and 'I am not being guided'.

'R' also asks Ms D for the name of the trading company – but she doesn't answer that question, instead saying:

'This is a trusted source I bought from previously... I am paying a person for cryptocurrency via a trusted platform'.

Ms D adds:

'I know this person very well ... we do business together'.

And when asked by 'R' to provide information on her crypto and trading accounts, Ms D says this was private information and 'R' was stealing her money.

On 18 December 2023,¹ and 9 January 2024 'R' says to Ms D:

'Make sure any research you do is your own – fraudsters create convincing-looking posts on social media or share articles about investing. If someone says you need to send money as a tax or fee to access your funds, you are being scammed. Are you comfortable with proceeding with this transaction?'

Ms D has confirmed that she had around this time been asked to pay fees to withdraw her funds, and yet she replies saying she was happy and comfortable to proceed with the transaction.

On 8 January 2024 'R' asks Ms D:

'... can you please provide us with ... A statement from the platform where you have transferred your funds .. Any communication with external parties on the transactions you are performing ... Any research you have performed, or evidence, to make yourself comfortable that this isn't a scam (this could be a website for example) ... An explanation why you are using 'R' as an intermediary for moving your funds rather than from your own account. If anyone is guiding you on how to respond to us, this is almost definitely a scam and you should immediately cease communication with them'.

Ms D doesn't engage with 'R' – instead insisting she has provided all the necessary information and traded *'with this person'* before.

As well as the chat interaction between Ms D and 'R', I've seen evidence that she was sent information from 'R' in May 2023 (prior to the scam) specifically about investment scams. This referred to the key hallmarks of such scams – including the promise of high returns (Ms D has said she was told to expect daily returns of 3%), being pressured to invest and professional looking websites. This all applied to Ms D's situation.

When disclosing to 'R' that she was purchasing crypto; Ms D also received crypto specific automated warnings which expressly referred to high returns, professional looking trading platforms and being pressured to make payments. It also points out that most crypto exchanges are unregulated. Again, this, in my opinion should've resonated with Ms D – particularly as she seemed to be of the belief a crypto exchange she was making payments to was regulated.

So aside from her conversations with 'R', Ms D *had* been made aware, both prior and during the scam, of the risk of crypto investment scams.

Taking all this into account, I'm not persuaded that a crypto specific warning from Barclays as part of the 12 October 2023 telephone call would've likely uncovered that Ms D was falling victim to a scam.

I've also thought about whether any further interventions from Barclays would've likely resonated with Ms D. I appreciate her point that it is evident Barclays had concerns about her payments given how many times it intervened in the transactions. But I would also argue that the further Ms D got into the scam, the more she believed it to be genuine. I can't see that at any time she questioned the scammer or showed any signs of not trusting what he was telling her.

Further to that, the amount of interactions Ms D had with 'R' during the whole period of the scam gave her time to think about the significance of the responses she was providing to 'R's questions – particularly as she's confirmed that she hadn't been coached by the scammer. And if Ms D didn't fully understand what 'R' was asking her or why, she could've clarified that with 'R'.

Ms D says 'R' should've been concerned about her responses, but I don't agree. Many people use 'R' to legitimately invest in crypto. And Ms D was consistent in what she was saying, repeatedly confirming she wasn't being guided; that she'd done her research; and not been asked to pay a fee for withdrawals. I've no reason to believe she'd have not responded in similar terms if Barclays had provided a proportionate intervention in any of her payments.

Nor can I say with any degree of certainty that asking Ms D into branch would've resulted in a different outcome given the way she answered the questions that she was asked by Barclays and 'R'. Ms D was so confident in the investment (and the scammer) that I'm not persuaded any further face to face questioning would've likely uncovered the scam or prompted Barclays to invoke the banking protocol. And given Ms D's pattern of behaviour, as demonstrated by her interactions with Barclays and with 'R', I think she'd have likely dismissed any further face to face interventions by Barclays as a hindrance rather than an attempt to help her – and as a result, she'd have likely reiterated her insistence that the

payments were being made on her own fruition, that no one was guiding her, that she'd received returns and that she'd carried out research.

And given the nature of the relationship and trust between Ms D and the scammer, I also think it's reasonable to assume that if Barclays *had* asked her to attend a branch, then she'd have likely sought the scammer's advice on how to respond to the type of questions she'd be asked.

So, in summary, I can't reasonably say that any in person intervention by Barclays would've likely resulted in Barclays having sufficient concern to invoke the banking protocol.

I've thought next about whether Barclays could've done anything to recover Ms D's loss when the scam was reported. Given these were card payments, the only option of recovery was via chargeback. But given the payments were made to legitimate crypto providers, I don't consider it would've had any prospect of success given there's no dispute the crypto was provided to Ms D. And so, I don't think Barclays could've recovered Ms D's loss.

I have a great deal of sympathy for Ms D and the loss she's suffered. I want to reassure her that I haven't taken this decision lightly. But it would only be fair for me to direct Barclays to refund her loss if I thought it was responsible – and I'm not persuaded that this was the case. For the above reasons, I think Barclays has acted fairly and so I'm not going to tell it to do anything further.

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 Ms D to accept or reject my decision **before 13 June 2025**.

Anna Jackson
Ombudsman