

## **The complaint**

Miss D complains that Barclays Bank UK PLC won't refund the money she lost when she was the victim of what she feels was a scam.

## **Third parties**

Several third parties feature in the events I shall describe. I don't need to identify them by their names, and I shall refer to them as follows:

B – a licensed and regulated producer of cannabis for medicinal use in the overseas jurisdiction.

P – a lighting technology company incorporated in the UK in September 2017. Currently in liquidation. P acquired a 20% stake in B and told investors it sought funding to provide proprietary plasma lighting to B for the cultivation of cannabis on a site in the overseas jurisdiction that P had leased ("the project"). My reference to P also includes linked companies that were incorporated in the UK to take on different roles in the project.

C1 – a company set up by P in the overseas jurisdiction to manage the leased site.

X – the main director of P. Made bankrupt for the first time in July 2017. Discharged 12 months later. Made bankrupt for a second time in September 2023.

K – a lighting technology company that X was a director of between 2009 and 2016. It went into administration in February 2020.

H – a third-party UK-based pharmaceutical company licensed to cultivate medical-grade cannabis in the UK.

P1 – incorporated in August 2021 by the directors of P, P1 was set up to supply P's proprietary lighting equipment to H.

## **What happened**

In or before September 2021, Miss D says she was told about an opportunity to invest in P by a friend of hers who had also invested. She was put in touch with the company and understood the investment was to loan funds to P for the project in return for acquisition of shares in P. P would then repay the loan after a minimum term of 12 months. And after looking into the company and its directors and reviewing the documents she was sent, Miss D agreed to invest and made a payment of £20,000 from her Barclays account to P.

Unfortunately Miss D wasn't returned the money she'd invested after the end of the 12-month term. P sent a number of updates explaining the delays, citing financial constraints and Covid-19. But in late 2022, Miss D's friend decided to visit the overseas site and discovered that pictures P had been including in its newsletters were fake and that the site had never been operational – despite P claiming otherwise. The friend then told Miss D they thought this was a scam, and Miss D reported the payments she had made to Barclays.

Barclays investigated and offered to pay Miss D £75 as compensation for delays in dealing with her claim. But it didn't agree to refund the money she had lost from her investment. Miss D wasn't satisfied with Barclays' response, so referred a complaint to our service.

I sent Miss D and Barclays a provisional decision on 1 August 2025, setting out why I intended to uphold the complaint. That provisional decision forms part of this final decision and is copied below:

*"When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.*

*In broad terms, the starting position in law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations 2017 (PSRs) and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the provider to reimburse the customer even though they authorised the payment.*

#### The CRM Code

*The CRM code was a voluntary code for reimbursement of APP scams which required signatory firms to reimburse customers who had been the victims of APP scams in all but a limited number of circumstances. Barclays was a signatory to the CRM code at the time the payment in dispute was made.*

*In order for me to conclude whether the CRM code applies in this case, I must first consider whether the payment in question, on the balance of probabilities, meets the CRM code's definition of an APP scam.*

*An "APP scam" is defined in the Definitions and Scope section of the CRM code, at section DS1(2)(a), as:*

*"a transfer of funds executed across Faster Payments, CHAPS or an internal book transfer, authorised by a Customer in accordance with regulation 67 of the PSRs, 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."*

*DS2(2) of the CRM code says:*

*This Code does not apply to:*

*...*

*(b) private civil disputes, such as where the 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;"*

*The CRM code doesn't provide a definition for "fraudulent" purposes. Therefore, it ought to get its natural meaning in the context in which it is being used. Having thought carefully about that, I'm satisfied that the CRM code is intended for customers to be reimbursed where they have been dishonestly deceived as to the purpose for which their payment was being obtained.*

*Section DS2(2) makes it clear that "private civil disputes" between the paying bank's customer and a legitimate supplier aren't included, even if the relevant goods or services were never received or were defective. This shows that a dispute which could only be pursued in the civil courts as a private claim isn't an APP scam. To take the matter beyond a mere private civil dispute between the parties, there must have been a crime committed against the payer in fraudulently obtaining their payment for purposes other than the legitimate purpose for which the payment was made.*

*That doesn't mean that a person claiming reimbursement under the CRM code needs to meet the criminal standard of proof ("beyond reasonable doubt"). Indeed, I understand that the CRM code's publisher, the Lending Standards Board, has provided guidance that the criminal standard isn't required. In line with the general approach taken by our service when deciding complaints that are referred to us, I only need to be persuaded on a balance of probabilities, the same standard of proof that is required in civil cases.*

*However, at the heart of the CRM code is the requirement for the customer to have been the victim of fraud. And so, I would need to see evidence that convinces me, it's more likely than not, that a criminal fraud has occurred, and therefore that Miss D has lost his money to an APP scam.*

*If I conclude, on the balance of probabilities, that the payment in question meets the definition of an APP scam, as defined above, then Miss D would be entitled to reimbursement unless Barclays is able to show that any of the CRM code's exceptions at section R2(1) apply.*

*Is it appropriate to determine Miss D's complaint now?*

*Before Miss D's complaint was referred to our service, Barclays hadn't yet given her an outcome on her claim as it said the matter was still under review due to the complex nature of the investigation. And in its response to our investigator's opinion, Barclays said it wasn't comfortable that this matter could be classed as a scam and that any assumption that P set out to scam investors would risk prejudicing the on-going investigation and any potential court case.*

*The CRM code says firms should make a decision as to whether or not to reimburse a customer without undue delay. There are however some circumstances where I need to consider whether a reimbursement decision under the provisions of the CRM code can be stayed. If the case is subject to investigation by a statutory body and the outcome might reasonably inform the firm's decision, the CRM code allows a firm, at section R3(1)(c), to wait for the outcome of that investigation before making a reimbursement decision.*

*I also understand that the police investigation is still ongoing and that the liquidator's enquiries are continuing. So I think it's right that I should consider whether it would be appropriate to delay my decision in the interests of fairness.*

*There may be circumstances and cases where it's appropriate to wait for the outcome of external investigations and/or related court cases. But that isn't necessarily so in every case, as it may be possible to reach conclusions on the main issues based on evidence already available. And it may be that investigations or proceedings aren't looking at quite the same*

issues or doing so in the most helpful way. I'm conscious, for example, that any criminal proceedings that may ultimately take place might concern charges that don't have much bearing on the issues in this complaint; and, even if the prosecution were relevant, any outcome other than a conviction might be of little help in resolving this complaint because the Crown would have to satisfy a higher standard of proof (beyond reasonable doubt) than I'm required to apply (which – as explained above – is the balance of probabilities).

I appreciate that investors have recently been informed by the police that the case is proceeding expeditiously. But, for the reasons given above, I remain satisfied that I don't need to await the outcome of that investigation to make a fair and reasonable determination of this complaint. I think it's also important that I mention, if only for the sake of completeness, that the police have been giving similar updates to complainants for some time now.

As for investigations by liquidators, these are normally made for the purpose of maximising recoveries for creditors. Sometimes they lead to civil proceedings against alleged wrongdoers, or against allegedly implicated third parties. But the claims may not be relevant to the issues on the complaint. And, even if they are potentially relevant, such claims are quite often compromised without a trial and on confidential terms, so the outcome is of little benefit to our service.

In order to determine Miss D's complaint, I have to ask myself whether, on the balance of probabilities, the available evidence indicates that it's more likely than not that she was the victim of a scam rather than a failed investment. But I wouldn't proceed to that determination if I consider fairness to the parties demands that I delay doing so.

I'm aware that Miss D first raised her claim with Barclays in late 2022, and I need to bear in mind that this service is required to determine complaints quickly and with minimum formality. With that in mind, I don't think delaying giving Miss D an answer for an unspecified length of time would be appropriate unless the delay is truly required for the sake of fairness to both parties. So, unless a postponement is likely to help significantly when it comes to deciding the issues, bearing in mind the evidence already available to me, I'd not be inclined to think it fair to put off the resolution of the complaint.

I'm also aware that P is under liquidation. This might result in some recoveries for P's creditors, or even theoretically its shareholders. It's unlikely that victims of this scheme (as unsecured creditors) would get anything substantive if there are secured creditors, given recoveries would initially be for any secured creditors. That said, in order to avoid the risk of double recovery, I think Barclays would be entitled to take, if it wishes, an assignment of the rights to all future distributions to Miss D under the liquidation process in respect of this £20,000 investment before paying anything I might award to her on this complaint.

For the reasons I discuss further below, I don't think it's necessary to wait until the outcome of a statutory body investigation for me fairly to reach a decision on whether Barclays should reimburse Miss D under the provisions of the CRM code.

Has Miss D been the victim of an APP scam, as defined in the CRM code?

As I mentioned above, Barclays was a signatory to the voluntary CRM code which provides additional protection to scam victims. Under the code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam (except in limited circumstances).

The CRM code only applies if the definition of an APP scam is met, as set out above. As I've also set out above, the CRM code doesn't apply to private civil disputes, such as where a

*customer has paid a legitimate supplier for goods or services but hasn't received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier. So, it wouldn't apply to a payment made for a genuine investment that subsequently failed.*

*As there's no dispute that Miss D's funds were transferred to the intended recipient, I don't consider section DS1(2)(a)(i) of the definition to be relevant to this dispute. Therefore, in order for there to have been an APP scam, Miss D must have transferred funds to P for what she believed were legitimate purposes, but which were in fact fraudulent, as set out in section DS1(2)(a)(ii).*

*I've therefore considered whether or not Miss D's intended purpose for the payment was legitimate, whether or not the intended purposes of Miss D and P were substantially aligned and, if not, whether or not this was the result of dishonest deception on the part of P.*

*Miss D lent a sum of money to P in September 2021 which she believed would be used for funding the project. She understood her loan would be repaid after a fixed period. She also understood that she had acquired shares in P and would receive dividends in the short term if certain conditions were met.*

*Miss D has said she reviewed the brochures and documents for the investment she was sent, which were all very convincing. She's also said she checked the names of the directors and other investors on Companies House and searched online for information about the backgrounds of the directors. And she's said she looked up the location of the overseas site on an online map service to confirm it existed. So, at the time she made the payment, I'm satisfied Miss D believed that it was for a legitimate purpose.*

*I've then considered whether there is convincing evidence to demonstrate that P's purpose of the payment was fraudulent. That is, whether P's purpose must have been to misappropriate Miss D's funds or otherwise deprive her of her money, rather than to use it for the purpose believed by Miss D.*

*I've carefully reviewed the liquidator's findings. The following observations they've made are of particular relevance to this complaint:*

- Following P's incorporation in September 2017, while an undischarged bankrupt, X acted as a de facto director of P and promoted the company as a successor to K. X was appointed a director of P in June 2018, prior to his discharge from bankruptcy.*
- As an undischarged bankrupt, X was prevented from being involved in the formation or management of any company.*
- Between September 2017 and July 2018, when X was an undischarged bankrupt, nearly 34% of the investor's money was drawn out by X via another company he was a director of, or to his personal account, or otherwise applied towards lifestyle spend.*
- Between March 2018 and July 2019, X made rental payments every month in respect of the property he and his family were living in. And between September 2018 and September 2019, nearly 32% of investments into P were applied towards purchasing that property.*
- Between January 2020 and April 2020, repayments to investors were made which were drawn from new investor funds. The pattern of using new investor funds to repay historic investors continued subsequently.*

*Given the substantial size of these payments, the fact that they preceded Miss D's investment, and X's misconduct as a bankrupt, I consider this is powerful evidence that P's true role was to dishonestly raise money from investors in order to fund X's lifestyle and make repayments to earlier investors.*

*In communication shared with our service, one of the former directors of B states that B had significant funding problems with P, from as early as November 2019. The email goes on to say that by that point, B had used all its capital and had committed \$2.5 million. It no longer controlled the land and had difficulties raising additional funds. Although P promised to lend it \$1 million, that funding never arrived. The site was left in a state of disrepair, and B in ruins. B's former director concludes the email by saying they believe that P was set up as an investment fraud, given the initial contract signed by both parties for the project was never funded.*

*A review of bank statements of P's account from the relevant time supports B's claim that the promised sum wasn't sent, with only around £83,000 being sent to B during the relevant period.*

*This leads me to conclude that, by the time of Miss D's payment, P had no intention to fulfil its obligations to B in relation to the project, and therefore it also had no intention to use Miss D's funds as it had led her to believe it would. Instead, based on what the liquidator has noted, it appears that Miss D's funds were used largely for X's personal benefit and repayments to earlier investors.*

*In further communication shared with our service, the general manager of the company that P, through C1, engaged with in 2018 to carry out construction at the leased site states that the company experienced multiple delays in receiving payments. And in early 2021 it was asked to stop all work immediately and leave the site. At the time, construction hadn't finished, and the site didn't have electricity or water. The general manager also states that to their knowledge, the site has never had any grow lights installed, nor grown cannabis.*

*The communication from B's former director corroborates that evidence, stating that lighting was never provided, nor cannabis grown on the site.*

*The information provided by the third parties which I've mentioned above is completely at odds with the letter P sent to shareholders in November 2021 which included 'sensitive' images of the 'up and running' facility, one of which purported to show the cannabis flower cultivation grow room. Other investors have alleged that these images were taken from third-party websites and provided links that appear to support this allegation. And while P's newsletter was written after Miss D made her investment, I do consider it relevant to the extent that it provides evidence of P's willingness to deceive investors about the use of their funding.*

*Further (again subsequent) evidence of X's dishonest business practices has been provided to our service. I understand that in 2021, P agreed to make a payment of £2.5 million to H for the deal it had entered into – through P1 – to supply P's proprietary lighting in return for a percentage of H's revenue. When the funds didn't arrive, X claimed to have sent it and provided a screen shot of the payment confirmation to evidence this. Our service has seen a copy of the payment confirmation screen. And the bank statement of the account that money was alleged to have been sent from doesn't show the payment in question leaving the account.*

*Moreover, the account balance on the day in question stood at around £80,000. So, it's unclear how P could have made a payment of £2.5 million to H. Our service has also seen an email from the police where they have confirmed that none of the accounts held by P,*

*connected companies, or X, had a balance that could have cleared that payment. I consider that this evidence supports a conclusion that X and P were more than capable of the level of dishonesty required for an APP scam such as the one Miss D alleges she fell victim to.*

*The police have also said that they can see very little of the funds received from investors being invested back into the company; most of it was spent on X and his family's lifestyle.*

*Overall, after having carefully considered the information and evidence available, and given the findings I've made above, I'm persuaded that P's purpose was not aligned with what Miss D believed when she made the payment in September 2021. Miss D made the payment believing its purpose was to fund the cannabis cultivation project, whereas, in truth, P had the dishonest intention of diverting a substantial part of the money to support X's lifestyle, repay earlier investors, and, as and when necessary, deceiving investors that P was establishing and conducting viable business operations.*

*So, I think the circumstances here meet the definition of an APP scam as set out under the CRM code.*

*Returning to the question of whether in fairness I should delay reaching a decision pending developments in the liquidation or police enquiries, I've explained why I should only postpone a decision if I take the view that fairness to the parties demands that I should do so.*

*In view of the evidence already available to me, however, I don't consider it likely that postponing my decision would help significantly in deciding the issues. The liquidators have already expressed their views. And as regards the police's investigations, there's no certainty as to what, if any, prosecutions may be brought in future, nor what, if any, new light they would shed on evidence and issues I've discussed.*

#### *Is Miss D entitled to a refund under the CRM code?*

*The CRM code requires firms to reimburse customers who have been the victim of authorised push payment scams, like the one I've explained I'm satisfied Miss D fell victim to, in all but a limited number of circumstances. And it is for the firm to establish that one of those exceptions to reimbursement applies.*

*Under the CRM code, a firm may choose not to reimburse a customer if it can establish that:*

- The customer ignored an effective warning in relation to the payment being made*
- The customer made the payment without a reasonable basis for believing that:
  - o the payee was the person the customer was expecting to pay;*
  - o the payment was for genuine goods or services; and/or*
  - o the person or business with whom they transacted was legitimate**

*There are further exceptions within the CRM code, but these don't apply here.*

*Did Miss D ignore an effective warning in relation to the payment?*

*The CRM code says that an effective warning should enable a customer to understand what actions they need to take to address a risk and the consequences of not doing so. And it says that, as a minimum, an effective warning should be understandable, clear, impactful, timely and specific.*

Barclays has said that, when Miss D made the payment to P, she was shown a warning which said:

***“Stop. Could this be a scam?”***

*Fraudsters fake documents and websites to look like genuine organisations, and post adverts on social media.*

*If an offer sounds too good to be true, it probably is. Speak to a financial advisor before proceeding.*

*Search the FCA register and use the ScamSmart tool to check the company is certified and regulated. If they are, verify their account details over the phone. Use a number from a trusted source such as an official website.”*

*But while this warning does mention fraudsters looking like genuine organisations, I don't think it gives enough detail about what an investment scam of this type would look or feel like. And while it mentions offers that are too good to be true, I don't think it gives enough details about how to tell whether an offer is too good to be true.*

*I also don't think this warning is specific enough about the seriousness of the potential consequences of sending money to a fraudster.*

*And, as Miss D has said the friend that told her about the opportunity to invest in P was a financial advisor, I don't think the warning will have seemed particularly relevant to her circumstances and she would reasonably have thought she had taken some of the steps it recommended.*

*So I don't think this warning was clear, impactful or specific enough to be effective in Miss D's circumstances. And so I don't think Barclays has established that she ignored an effective warning in relation to this payment.*

*Did Miss D make the payment without a reasonable basis for belief?*

*I've also considered whether Miss D acted reasonably when making this payment, or whether any warning signs ought to have reasonably made her aware that this wasn't a genuine investment.*

*Miss D has said she was introduced to the investment by someone she's said was a trusted friend. She's also said the friend was a financial advisor and that both they, and their family, had invested significant amounts in P themselves. So I think it's reasonable that being introduced to P in this way will have made Miss D think that it was genuine.*

*Before investing, Miss D has said she carried out checks into P and its directors, including looking up details on Companies House and searching for information online about the individual directors. She's also said she looked up the location of the overseas site on an online map service to confirm it existed. And she's said she reviewed the brochures and documents she was sent, and was aware a large number of other people had invested as well. So I think Miss D at least tried to take reasonable steps to check that the investment was genuine, and I've not seen anything to suggest there was any information she should have found from these checks which should have caused her significant concern.*

*From the brochures and documents I've seen, it appears the paperwork P was giving to potential investors looked relatively professional and genuine. So I think it's reasonable that the documents she was given will have reassured Miss D that the investment was genuine.*

*I appreciate that, with the benefit of hindsight, it's possible to identify some things about what was happening and what she was told that could have caused Miss D some concern. But, based on what I've seen, I don't think it was unreasonable that, at the time, she either didn't pick up on these things or wasn't caused enough concern by them to overcome the parts of the scam that felt genuine.*

*So I don't think it would be fair to say that Miss D acted unreasonably when making the payment, or that Barclays has established that she made the payment without a reasonable basis for belief that the investment was genuine.*

*Overall then, I don't think Barclays has established that any of the exceptions to reimbursement under the CRM code apply here. So I think it should refund the money Miss D lost, in full.*

### Compensation

*Barclays has offered to pay Miss D £75 as compensation for delays in dealing with her claim. And, from what I've seen, I think this is fair and reasonable compensation for the distress and inconvenience the poor customer service it provided caused her. So I don't think it would be fair to require Barclays to pay any further compensation.*

### Redress

*From what I've seen, I think it's unlikely that any intervention by Barclays at the time of the payment would have uncovered the scam or positively impacted Miss D's decision-making. I don't think either party would have likely uncovered sufficient cause for concern about P such that Miss D would have chosen not to proceed. And, to be clear, I'm not making a finding that Barclays should have intervened at the time of the payment.*

*But I think Barclays should have reimbursed Miss D when she made a claim under the CRM code. So, in order to put things right, I think Barclays should now pay interest at 8% per year on the amount refunded, from the date of the deadline for its initial response to Miss D's claim until the date of settlement.*

*As P is now in liquidation, it's possible Miss D may recover some further funds in the future. In order to avoid the risk of double recovery, Barclays is entitled to take, if it wishes, an assignment of the rights to all future distributions under the liquidation process in respect of this £20,000 investment before paying the award.*

*If the bank elects to take an assignment of rights before paying compensation, it must first provide a draft of the assignment to Miss D for her consideration and agreement."*

*I said I'd consider anything further Miss D and Barclays submitted following the provisional decision, provided it was received by the deadline given.*

### **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.*

Barclays responded to the provisional decision, agreeing to refund the money Miss D had lost but arguing that it should only be required to pay interest at the account rate for the account the funds had been paid from, as it was a savings account. Miss D disagreed with this, as she said she would have invested the money she lost in some other way if Barclays had returned it. So she felt she should still be entitled to the 8% interest mentioned in the provisional decision.

As neither Miss D nor Barclays submitted and further evidence or arguments in relation to whether she had been the victim of a scam or whether she was entitled to a refund under the CRM code, I still feel the conclusions I set out in the provisional decision in relation to these issues are correct – and for the same reasons. I still think the circumstances here meet the definition of an APP scam as set out under the CRM code and I don't think Barclays has established that any of the exceptions to reimbursement under the CRM code apply here. So I still think Barclays should refund the money Miss D lost here, in full.

In terms of the interest Barclays should pay on this refund, I appreciate that the funds came from a savings account and had been in that account for some time before Miss D invested them in P – which could suggest that, once they were returned, they would have remained in the savings account. But Miss D has said she would have re-invested the funds in some way once they were returned to her. And, as she had already intended for them to be invested in P, and has provided evidence of other investments she made around the time the funds would have been returned, I think it's likely she would have re-invested them in some way – rather than just leaving them in the savings account.

I can't be certain of where she would have re-invested the funds, or of the returns she might have achieved, but I don't think it's necessary to be so here. A consumer's lack of access to their funds and the loss of opportunity to use or invest them as they choose to are, in part, why our service will often require a business to pay 8% simple interest on this kind of scam refund. And I don't think there is sufficient reason to depart from that here. I'm satisfied that an award of 8% simple interest here is fair in Miss D's circumstances.

### **My final decision**

For the reasons set out above, I uphold this complaint and require Barclays Bank UK PLC to:

- Refund Miss D the £20,000 she lost as a result of this scam
- Pay Miss D simple interest at 8% per year on this refund, from the date of the deadline for its initial response to her claim until the date of settlement
- Pay Miss D £75 compensation, if it has not already done so

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 16 October 2025.

Alan Millward  
**Ombudsman**