

## The complaint

Mr K complains that Barclays Bank UK PLC didn't protect him from an investment scam.

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

## What happened

Mr K explains that he was introduced to an investment opportunity in forex trading (with a company I'll refer to here as 'H') by his former accountant. Mr K has said that he was later put in contact with a wealth management company (which I'll refer to here as 'E') who provided him with promotional material about the investment in 'H'.

Mr K understood the terms of the investment to be monthly returns of 5%, with the capital returned in 12 months.

He says he was provided with paperwork about 'H' which outlined the terms of the investment and looked to him to be genuine and professional. He says he was told that to facilitate the investment, he needed to open a dedicated holding account (with a company I'll refer to here as 'G') which Mr K says was presented to him as a legitimate financial institution who would administer the investment and act as paymaster/distributor of 'H's clients' return of profits/funds.

On 22 August 2018 Mr K entered into a loan agreement with 'H' for the sum of £80,000. He then made the following online payments as part of the investment scheme, which included the investment capital (£80,000), as well as payments to 'G' to manage his holding account and for what are described as consultancy fees.

<b>Date</b>	<b>Amount</b>
28 August 2018	£80,000 plus £3 fee
30 August 2018	£645
31 August 2018	£3,288
<b>Total</b>	<b>£83,936</b>

Barclays has said that it stopped the £80,000 payment and spoke to Mr K, providing him with a scam warning. A recording of that call isn't available, nor is there a transcript of what was discussed. Mr K proceeded with the payment and Barclays didn't intervene in the two subsequent payments.

Mr K received a return on his investment in December 2018 of £11,480. No further returns were paid.

'H' went into liquidation in June 2019.

On 28 September 2023 Mr K made a complaint to Barclays. In short, he said he'd been the victim of a scam, and that Barclays hadn't done enough to protect him. Mr K therefore held Barclays responsible for his loss. He wanted Barclays to refund him together with 8% interest and £1,000 for the distress and inconvenience caused.

In summary, Barclays said Mr K had ignored its scam warning and chose to proceed with the £80,000 payment. Mr K referred his complaint to the Financial Ombudsman.

One of our Investigators considered the complaint but didn't uphold it. Essentially, he accepted that Mr K had been the victim of a scam and that Barclays should've asked him about the purpose of the £80,000 payment when it spoke to him. But he didn't think a proportionate intervention by Barclays would've uncovered the scam given the limited adverse information about 'H' at the time, and because Mr K had been introduced to the investment by someone he trusted and who was also investing in 'H'.

Our Investigator also thought there was no reasonable prospect of Barclays being able to recover the lost funds. Nor did he think there was any basis for Barclays to compensate Mr K for the distress and inconvenience caused.

Mr K didn't accept what our Investigator said. In summary, he agreed that Barclays needed to speak to him about the £80,000 payment, but that as no record of the conversation could be provided, *"Barclays cannot discharge the burden of proof that an effective warning was given."* He said Barclays can't argue a warning was proportionate when it can't evidence it took place.

Mr K also said that at the time of the payments, Barclays was a signatory of the Contingent Reimbursement Model (CRM code) and so the provisions under the Code should be adhered to here.

Mr K went on to say it was wrong to assume that he wouldn't have been receptive to a proportionate warning from Barclays about the £80,000 payment. He said the circumstances surrounding the 'investment' had hallmarks of a scam, and that Barclays should've provided targeted warnings and challenged him about the legitimacy of the £80,000 payment before processing it.

Mr K said regardless of whether there was any adverse information about 'H' at the time, Barclays should've still asked probing questions about things such as guaranteed returns, overseas or trust structures, pressure to transfer funds, and the absence of regulatory protection. He said Barclays had been unable to evidence that any such enquiry took place.

In terms of the former accountant who introduced him to the investment, Mr K wanted to make it clear that he was acting in a personal capacity and had no investment or financial background. Mr K said this is important *"because it clarifies that the advice or information provided by his former accountant was informal and not governed by the professional standards or duties expected of regulated financial professionals"*.

Finally, Mr K said as well as refunding his losses, Barclays should compensate him for the distress and inconvenience caused.

Our Investigator replied to Mr K confirming that the CRM doesn't apply as the payments in dispute predated its introduction. He also said that no record of the phone conversation wasn't ideal, but that he'd made a finding on balance that he maintained was fair.

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 this complaint for largely the same reasons as our Investigator. I know this isn't the answer Mr K was hoping for and so this will come as a disappointment. I'm really sorry to hear about the situation he's found himself in, and I can understand why he'd want to do all he can to recover the money he lost. But I need to decide whether Barclays can fairly and reasonably be held responsible for Mr K's loss. Overall, I've decided that it can't be. I'll explain why.

But first, I would like to say at the outset 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 Mr K's loss.

Following a court hearing in July 2020, it's now accepted that Mr K has likely been the victim of a scam. But the transactions he made towards the investment were authorised payments. So, Mr K is 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 Mr K'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 Mr K when he 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.

Where there is an interaction between a customer and a bank before a high value payment is processed, as there appears to have been here in relation to the £80,000 payment, I'd expect the bank to take reasonable steps to understand the circumstances of that payment. I don't think it's in dispute that a phone call took place – rather Mr K has said he can't recollect what was said – other than Barclays mentioning the risks associated with making an international payment - and Barclays has no available records.

But regardless of what evidence may or may not exist about the phone call, that doesn't change my view that there was an opportunity here for Barclays to have questioned Mr K about the £80,000 payment. And in doing so, I agree with Mr K that it should've asked him about what the funds were for and provided an appropriate and proportionate warning.

However, for me to find it fair and reasonable that Barclays should refund Mr K requires more than a finding that Barclays ought to have intervened; or that its intervention – that Barclays cannot evidence - was insufficient.

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 £80,000 payment was part of a fraud or scam, then I couldn't fairly hold it liable for not having prevented it from being made.

To reiterate, Barclays' primary obligation was to carry out Mr K's instruction without delay. It wasn't to concern itself with the wisdom or risks of his 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 payment that Mr K had told it to make. Mr K had already decided on that investment. And I find that Barclays couldn't have considered the suitability or unsuitability of a third-party investment product without itself assessing Mr K's circumstances, investment needs and financial goals.

Taking such steps to assess suitability without an explicit request from Mr K (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, as I've outlined above, 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 £80,000 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 Mr K about his payment back in August 2018. I cannot apply the benefit of hindsight to this finding.

'H' was a genuine company and there was no negative information in the public domain until *after* 'H' went into liquidation (June 2019). Having carefully reviewed all the material Mr K has provided, 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 Mr K at the time of the August 2018 payment.

I think it's also likely Mr K would've told Barclays that he had documents from 'H' and 'G' confirming the terms of the investment, together with a loan agreement, suitability of investment form, and had signed a confirmation of understanding, which at the time all appeared to him to be entirely genuine. Mr K also said he had access to a genuine looking trading platform operated by 'G' which showed how his investment in 'H' was doing, including his account balances, statements, and pending withdrawals.

I can also see from the attitude to risk form which Mr K completed that he'd put funds in 'risky' investments before and that he didn't have a cautious approach to risk. This, in my opinion, would've made Mr K less likely to be concerned if Barclays had talked about the risks involved.

Further, Mr K has said Barclays should've warned him about the risks of unregulated investments. But 'H' made it clear in its documentation that it's:

*"not authorised or regulated in the UK by the Financial Conducts Authority .... It is possible to lose more than your initial investment. Profits and returns are not guaranteed".*

The information from 'H' further states:

*'Before you decide to deal with ['H'] ... you should be aware of all of the associated risks and carefully consider your objectives, financial situation, needs and level of experience. ... ['H'] recommends that you seek advice from a separate financial advisor. ... you could sustain a total loss of your deposited funds and therefore, you should not speculate with capital that you cannot afford to lose'.*

And I can see from the confirmation of understanding form signed by Mr K that he accepted the need to seek his own independent financial advice where necessary.

So, it's likely Mr K had been made fully aware of the risks involved in the investment, which, in my opinion, makes it less likely that any warning Barclays might've provided to Mr K about unregulated investments would've resonated with him. But even if Mr K *had* been prompted by Barclays to carry out more checks into 'H' – I think it's very unlikely he'd have found anything of concern.

In summary, I've considered everything submitted and the arguments made, but while there may now be concerns about the legitimacy of 'H', everything I've seen indicates that those concerns only began to surface in the public domain *after* the £80,000 payment was made by Mr K.

I've thought next about how Mr K found out about the investment. Mr K was introduced to 'H' by his former accountant. But he was also provided with information from 'E' – which appears to be an unregulated firm that Mr K was made aware of. It's email footer states:

*"[E] is not regulated by the FCA, nor are any of our products regulated by them".*

Had Barclays asked Mr K who'd advised him about the investment, then the involvement of his former accountant and 'E' would've likely come to light at the time. But this type of unregulated investment could be entered into without obtaining regulated financial advice, which seems to have been the case here.

So, the status of the investment and how Mr K found about it weren't something that would necessarily have indicated 'H' was fraudulent (or that the investment was a scam) at the time Mr K asked Barclays to make the £80,000 payment.

I've gone on to look at the relationship between Mr K and his former accountant who first introduced him to 'H'. Mr K described him as a *"longstanding professional adviser whom he trusted greatly"*. It also seems that the accountant was already investing in 'H', and Mr K has said that this reassured him that it was a *"secure and reputable opportunity"*.

'E's involvement is also of significance here. Mr K wasn't just taking the word of his former accountant about the legitimacy of 'H', whom he says had no real investment or financial knowledge or experience. Mr K has said that 'E' described the investment as *"structured, safe, and professionally managed"*. And based on what 'E' provided, he had *"no reason to doubt the authenticity of the opportunity"*. Overall, when considering all the information provided by his accountant and 'E', Mr K said he believed *"he was entering into a genuine and regulated financial arrangement"*.

Taking all this into account, I simply don't think Barclays could readily have 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 Mr K could've uncovered such information – he wasn'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' being fraudulent. I don't think that a proportionate enquiry in August 2018 would've led to either Barclays or Mr K considering 'H' 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 instruction, or for not preventing Mr K from making his £80,000 payment, or the payments that followed, which were lower in value and to the same payee ('G').

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 Mr K contacted Barclays. Furthermore, 'H' had gone into liquidation by this point and recovery from 'G' wasn't possible as it was acting as a paymaster for 'H'.

Therefore, I can't say Barclays had any reasonable prospect of recovering the funds in 2023 given the passing of time; and because 'H' had gone into liquidation more than three years before.

I have a great deal of sympathy for Mr K and the loss he's suffered. But it would only be fair for me to direct Barclays to refund his 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 Mr K to accept or reject my decision **before 27 February 2026**.

Anna Jackson  
**Ombudsman**