

## **The complaint**

Mrs T complains that Metro Bank PLC won't refund the money she lost when she was the victim of what she feels was a scam.

## **What happened**

The payments in dispute here were made from an account belonging to a trust (which I'll call "T"). Mrs T and her husband Mr T are the signatories of that account. But given that Mrs T is the main party involved in the complaint I will largely just refer to her, to keep things simple.

Mrs T was looking to get some work done to her new home. She found details for a local builder and got in touch with him to discuss what she needed. The builder discussed the work in detail with Mrs T and provided a quote. Mrs T agreed for the work to go ahead.

The builder started the work and completed some of the work agreed in the quote. Over the following three months Mrs T made seven payments to the builder from T's account, totalling nearly £40,000.

Mrs T says she was increasingly dissatisfied with both the work that had been done, and the failure of the work to progress. She says the builder worked at her home for five months but made very limited progress. Mrs T has said other trades who were also working at her home commented on the poor quality of work the builder had done, and that her friend commented that the work was taking an unusually long time. Ultimately, the builder stopped coming to Mrs T's property, and Mrs T was unable to contact him.

Mrs T then reported the payments she had made to Metro as a scam and asked it to refund the money she had lost. Metro investigated but said that, as the builder had done some work, it felt this was primarily a civil dispute between Mrs T and the builder, rather than a scam. So, it didn't agree to refund the payments Mrs T had made. Mrs T wasn't satisfied with Metro's response, so referred a complaint to our service.

One of our investigators looked at the case. They said they felt this was a civil dispute between Mrs T and the builder, as the evidence suggested the builder was operating as a genuine business at the time and hadn't intended to scam Mrs T. So, they didn't think Metro should be responsible for the money Mrs T had lost or should have to refund the payments she had made. Mrs T didn't agree with our investigator, so the complaint has been passed to me.

## **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 don't think it would be fair to require Metro to refund the money Mrs T has lost. I'll explain why below.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services

Regulations 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 bank to reimburse the customer even though they authorised the payment.

Metro is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This requires firms to reimburse customers who have been the victim of certain types of scams, in all but a limited number of circumstances. But customers are only covered by the code where they have been the victim of a scam.

The CRM code says that it doesn't apply to private civil disputes, such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way or the customer is otherwise dissatisfied with the supplier.

So, in order to determine whether Metro should refund the money Mrs T lost under the CRM code, I need to consider whether she has been the victim of a scam – or, in other words, whether the builder set out from the beginning with the intent to defraud her.

The builder started the work at Mrs T's property, apparently after extensive discussions, and appears to have worked there for a number of weeks. Mrs T has said the builder did some demolition work – stating that he essentially pulled everything out of the property so it was left as just a shell – and that some materials were delivered for the renovations but appeared to either be poor quality or weren't ultimately used for her works. Mrs T has commented that often the builder would appear to be doing very little work when he was there, but nonetheless he appears to have been regularly attending the property for several months.

I'd usually expect a scammer to do as little work as possible in order to get the maximum possible profit in the shortest period of time. So the builder here did more work than I'd expect from a scammer who never intended to complete that work. The bank the payments were sent to has also told us that it hadn't received any other scam reports against the builder's account around this time. And from what I've seen of the activity on the account the money was sent to, it appears to have been run as I would expect a legitimate account to have been.

So, while the builder's actions may suggest he was unprofessional or not working to the standards Mrs T expected, I don't think the evidence necessarily suggests he intended to scam her.

I appreciate how Mrs T feels about this case, and that the work at her property was left unfinished. But based on the evidence I've seen, I think it's more likely the builder here was attempting to operate as a legitimate business at the time and that other factors ultimately meant the building work wasn't completed. I don't think the builder appears to have had an intention to defraud Mrs T during the period he was working on the house, or that Mrs T has been the victim of a scam here.

So I don't think the payments Mrs T made to the builder are covered under the CRM code, or that Metro should be required to refund the money she lost.

I sympathise with the position Mrs T has found herself in, and I'm in no way saying that she doesn't have a legitimate grievance against the builder. But, for the reasons I've explained above, I don't think it would be fair to hold Metro responsible for the money she's lost.

### **My final decision**

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 23 November 2023.

Sophie Mitchell  
**Ombudsman**