

The complaint

Mr W is unhappy that Metro Bank PLC haven't refunded money he lost as a result of a scam.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In May 2023 Mr W sent five debit card payments to an account he held at a legitimate crypto currency exchange before moving the money to a merchant who he saw advertising a trading website online. After Mr W was asked to pay more money in order to withdraw his funds he became suspicious and raised a claim with Metro.

Metro considered the complaint but said it didn't do anything wrong by allowing the payments to be sent so it wouldn't be refunding Mr W's money. It also said that a chargeback was unlikely to be successful due to the issue being raised out of time.

Our investigator didn't think the complaint should be upheld. He didn't think the payments were sufficiently unusual or suspicious for Metro to stop and ask more questions about them. And Metro didn't treat Mr W unfairly by not raising a chargeback. He added that Metro had fairly offered £60 for the service it provided to Mr W on the phone when the scam was raised.

Mr W disagreed and has asked for an Ombudsman's review. He says the payments should've flagged as it was to a high-risk crypto exchange.

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 reached the same conclusion as our investigator. And for largely the same reasons. I know Mr W feels strongly about this complaint and this will come as a disappointment to him, so I'll explain why.

Recovery

I've thought about whether Metro did enough to attempt to recover the money Mr W lost, as there are some instances where debit card transactions can be refunded through making a chargeback claim.

A chargeback wouldn't have been successful for the debit card payments to the account in Mr W's name at a legitimate crypto exchange, as Mr W was able to move the money onto the scammers. So, Mr W duly received the service he paid for on his debit card. The money was subsequently lost from his other account when it was moved to the scammers. So, he couldn't claim that he didn't receive the goods or services paid for from his Metro account.

As a result, I don't think Metro have acted unreasonably by failing to pursue a chargeback claim or try and recover Mr W's money here.

Prevention

While I don't think that Metro could have done more with regards to the recovery of Mr W's funds once it was made aware of the situation, I've also considered whether it ought to have intervened before allowing any of the payments to be made.

Under regulations and in accordance with general banking terms and conditions, Metro should execute an authorised payment instruction without undue delay. The starting position is that liability for an authorised payments rests with the payer, even where they are duped into making that payment. There is no dispute that Mr W made the payments, and so they were authorised.

However, in accordance with the law, regulations and good industry practice, a bank has a duty to protect its customers against the risk of fraud and scams so far as is reasonably possible. If, in breach of that duty, a bank fails to act on information which ought reasonably to alert a prudent banker to potential fraud or financial crime, it might be liable for the losses incurred by its customer as a result.

What this means is that as a starting point Mr W is liable for these transactions unless there's evidence that Metro could and should reasonably have done more to protect him and that this would have made a difference.

I've taken into account the law, regulatory rules and guidance, relevant codes of practice, and what I consider good industry practice at the time (some of which Mr W has referred to in his submissions). Metro ought to have been monitoring accounts to counter various risks, have systems in place to identify unusual transactions, or other indicators, that its customers were at risk of fraud and, in some situations, make additional checks before processing payments, or declined them altogether, to protect its customer from possible financial harm from fraud.

It isn't in dispute that Metro has (and had) obligations to be alert to fraud and to act in its customers best interests. So, the starting point here is whether the instructions Mr W gave to Metro when authorising the debit card and online payments were unusual in relation to the typical account activity.

I don't think the payments Mr W made to the scammers were sufficiently unusual at the time for Metro to step in and ask more questions even if they were to a new payee in this instance. That's because the payments he made towards this scam were for relatively small amounts ranging from £10 to £280. And I note from his statements he made similar sized payments, ranging from £300 to £900, in the twelve months before the scam.

So, it follows that I don't think the activity was so unusual, for this particular account, where I think it would've been reasonable for Metro to have intervened and to have spoken to Mr W before processing them. I also don't think there were any other reasons for Metro to have done more before following the instruction Mr W provided.

Customer service

Mr W is unhappy with the service he received when he raised the claim and that a call was disconnected with Metro when he was on the phone. Metro has paid £60 for the service it provided. I've seen that Metro has admitted it failed to raise the claim in a timely manner and

that feedback would be provided. This seems reasonable to me and in line with what I'd expect in similar cases.

I appreciate my decision leaves Mr W in a difficult position and that he has lost money to this scam. But, for the reasons I've explained I'm not going to ask Metro to do anything more here.

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 W to accept or reject my decision before 21 February 2024.

Mark Dobson
Ombudsman