

Complaint

Mrs R is unhappy that Metro Bank PLC hasn't reimbursed her after she was the victim of fraud.

Background

The background to this complaint is well known to the parties and so I don't intend to set it out in full here. In summary, in October 2021 Mrs R fell victim to an investment scam. She was looking for investment opportunities online and found a company that was endorsed by a well-known media personality. She entered her details on that company's website and received a call from someone who persuaded her to invest her money. That call wasn't from a genuine investment manager, but a fraudster.

The fraudster told Mrs R that, in order to help her with the process of making her investments, she should download a piece of remote access software. This enabled the fraudster to take control of her computer and show her how to carry out the steps he said were necessary to make the investments. She made transfers from her Metro account to accounts in her name that she held with third-party businesses. The funds were then transferred from those accounts on to the fraudsters. In total, she transferred just under £75,000 from her Metro account into accounts in her name

Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The starting point under the relevant legislation is that Mrs R will generally be considered liable for payments that she's authorised. I'm satisfied that the evidence shows that these payments were authorised. Although Mrs R initially said that she wasn't responsible for the payments, she has since accepted that she did make them, albeit she only did so because she was deceived by the fraudster into thinking she was paying into a legitimate investment opportunity.

The significance of that is that she is presumed liable at first instance. However, that isn't the end of the story. Good industry practice required that Metro be on the lookout for payments that were out of character or unusual to the extent that they might have indicated a fraud risk. On spotting such a payment, I'd expect it to intervene in a manner proportionate to the risk identified.

I think the first payments Mrs R made in connection with this scam were clearly out of character for the account and they ought to have been a cause for concern for Metro. It shouldn't have processed those payments without first making some enquiries with her to satisfy itself that she wasn't at risk of financial harm due to fraud.

However, I can't ask Metro to reimburse Mrs R unless I can reasonably conclude that its error was the cause of her loss. I have to take into account the law on this point. That means I need to be able to affirmatively answer the following question – would the damage

or loss which Mrs R has complained about have occurred “but for” the failings of the respondent? In other words, is there sufficiently strong evidence to show that it’s more likely than not that, “but for” the failing on the part of Metro, the relevant loss would not have occurred? If the loss would have occurred in any event, the conduct of Metro is not a “but for” cause.

To reach a conclusion on this point, I need to consider what would have happened if Metro had handled things differently. It ought to have contacted Mrs R and asked her about the payment. It should also have given her general guidance about the prevalence and risk of fraud and scams.

I can’t know with certainty what she would’ve done if that had happened. However, I do know how she responded to a similar enquiry from a different bank. That bank’s records show that it was concerned she was moving so much money to an account with a third-party business. Its records say that she told the bank that it was all her own money, and she was transferring it to a family member overseas. It also notes that she was asked if someone was helping her make the payments, but she denied that was the case. Those notes also suggest Mrs R was unhappy with being questioned about the payment.

I don’t say any of this to downplay or diminish the fact that Mrs R has fallen victim to a cruel and manipulative scam. But my role here is limited to looking at the actions and inactions of Metro Bank. And while I know that she’ll be greatly disappointed by the outcome I’ve reached, it’s hard to see that any intervention on Metro’s part would’ve been able to uncover the underlying reality of the payments she was making and so I’m not convinced that, even if it had handled things differently, it would’ve been able to prevent the scam.

Final decision

For the reasons I’ve explained above, I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs R to accept or reject my decision before 5 January 2024.

James Kimmitt
Ombudsman