

## **The complaint**

Mr S complains that Metro Bank PLC (Metro) won't refund the money he lost when he fell victim to a scam.

## **What happened**

In late 2021, Mr S says he was messaged by someone he thought he knew. Over the next few months, they built up a friendship. The individual sent Mr S screenshots showing money she had made through cryptocurrency trading – and persuaded him to sign up to a trading platform.

Between March and May 2022, Mr S used his Metro debit card to send almost £90,000 to cryptocurrency exchanges. He says he was purchasing cryptocurrency to send on to the trading platform. But he realised he had been scammed when Metro sent him a text warning him of this on 10 May 2022 – having not received any contact from it about prior payments.

Mr S complained to Metro (via a professional representative) that it should have done more to protect him. But Metro declined his complaint. It said Mr S had reported the payments as unauthorised originally – but it had records of him confirming he had made several payments which had been flagged for checks. So, it questioned the change in testimony.

Our investigator didn't uphold the complaint. They thought Metro ought to have questioned Mr S more about some of the payments – but weren't persuaded this would have dissuaded him from proceeding. They thought the messages suggested Mr S thought he was in a relationship with the scammer, adding to his determination to proceed. They also weren't convinced Mr S would have been forthcoming if Metro had questioned him further – particularly in light of the contradictions around whether he authorised the payments.

Mr S has appealed the investigator's outcome as he thinks he should receive a 50% refund. He argues further relevant questioning would have revealed the scam as Metro would have been able to identify the warning signs – which would have reinforced his concerns.

He also said that, when he disputed authorisation, he wasn't denying that he made the payments. Rather, he meant he was tricked as they weren't used for a legitimate purpose.

As no agreement has been reached, the case 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've decided not to uphold it. I'll explain why.

Mr S has now clarified that he agreed to these payments. That, along with the records provided by Metro (such as calls with Mr S from the time in which he confirmed making the payments), persuade me they were authorised. In line with the Payment Services Regulations 2017, Metro has a duty to follow Mr S's authorised payment instructions without undue delay. So, the starting position is that Mr S is liable for the payments.

However, on balance, I do accept Mr S made these payments because he was scammed. He has provided some messages between him and the alleged scammer. While these are only dated from May 2022, so don't cover the full period of the payments, the contact looks characteristic of a scammer. The individual is trying to persuade Mr S to pay more and more towards the trading, and seems to be manipulating him into believing they are investing for a future together.

The information I have about all the merchants paid, and how the funds were moved on, is incomplete. But the records I have seen suggest the payments were used to buy genuine cryptocurrency. And that Mr S was then tricked into sending on the funds, thinking they were being paid into his trading platform – whereas they were actually going to the scammers.

Even when a payment is authorised, there are circumstances when it might be appropriate for Metro to take additional steps before processing it. Such as when there are grounds to suspect the payment presents a fraud risk. That might occur when a payment is significantly unusual or uncharacteristic compared to the normal use of the account. And/or if the account activity fits a known pattern of fraud.

Looking at Mr S's statements, I do think the scam payments looked concerning. They were at odds with how he usually transacted, both in terms of their frequency and value. Metro also appears to have had concerns – as it spoke to Mr S on several occasions to check if the payments were authorised. This is despite Mr S telling us that it didn't flag any payments. During the calls, Mr S confirmed he was making the payments. On several occasions, he asked for any limits or blocks on his account to be removed – seemingly due to frustration about payments being stopped for checks.

While Metro did identify, and respond to, a fraud risk, I think it ought to have done more. I agree with our investigator it ought to have been concerned at an earlier point. And I don't think it was enough to simply check Mr S had requested the payments. They were clearly going to cryptocurrency merchants, and he was sending unusually large amounts in quick succession. I think Metro should have been alert to the risk it might be part of a cryptocurrency scam – and so should have questioned Mr S accordingly.

That in itself doesn't give me sufficient grounds to uphold this complaint. I'd need to be persuaded Metro's failings had a material impact on Mr S's loss. And I'm not convinced they did.

There are inconsistencies in what Mr S has told us about what happened. When he first disputed the payments, he said he didn't make them. I have listened to a call in which he said it wasn't him as he had been abroad. Metro pointed out many were authenticated using his mobile banking app. He said that wasn't him as he was using a different sim while abroad, so hadn't seen any messages etc. about the payments.

In bringing his complaint to us, Mr S says he did make the payments – but was tricked. I consider this a clear change in testimony. He has suggested his earlier contact with Metro simply meant he was disputing authorisation in the sense he had been tricked about what they were for. But that isn't consistent with the call I've listened to – in which Mr S makes it clear he didn't make the payments and didn't know anything about them.

In the call, Metro also asked about the credits paid into the account during the two-month period in which the payments occurred. Mr S said another bank account of his had been compromised, and they had returned him £5,000. Both we, and Metro, asked for records of this. Mr S has told us he can't provide anything as he didn't get a response from the other bank. Again, this appears to be a change in testimony. It also calls into question the extent of the loss he is seeking, given the reference to receiving a refund from another bank seemingly used to fund some of the payments.

All of this gives me concern over what Mr S has said to us about what he would have done if Metro had questioned him more about what he was doing, or delivered further warnings. I'm not confident in relying on what he has said in this regard, given the changes in his testimony over time.

Mr S says he realised he had been scammed due to a message from Metro about the payments. But despite what he told us initially, Metro had messaged and spoken to him on a number of occasions about the payments. So that calls into question the basis on which he says Metro could have uncovered the scam at an earlier date.

Mr S has said he wasn't coached on what to tell Metro if questioned about the payments. So his responses would have made it obvious to Metro, as the professional, that he was being scammed. But when he has changed his story about what happened in this way, I'm not sure I can rely on this assertion.

When our service asked for contact records between Mr S and the scammer, these were provided from May 2022 onwards. Meaning I can't see what was discussed/said about most of the payments. But from what I do have, I am conscious there was some discussion around Metro blocking transactions. In response, the scammer told Mr S *"Don't believe what they say, they're just there to prevent you from trading cryptocurrencies again"*. They suggested Metro, as a small bank, didn't want him to move his money away from it.

Contrary to what Mr S has told us, this seems to suggest the scammer may have prepped him to ignore/evade questioning or warnings from his bank. And I think the nature of Mr S's relationship with the scammer affects his likelihood to trust them over his bank. Again, while I can't see all the messages, I can see discussion around Mr S and the scammer being in a relationship, and that they are investing for their future together.

I appreciate this was all part of the sophistication and cruelty of the scam. However, in judging whether Metro ought to have been able to stop Mr S from making these payments, it leads me to think he wouldn't have been easily dissuaded from proceeding. Particularly as I can see that, even after expressing doubts to the scammer about the risks, the scammer was able to persuade Mr S to continue – and he sent over £25,000 more to the scam.

This has clearly been a very upsetting ordeal for Mr S. It does appear he has lost a large amount due to a sophisticated scam. But it's not Metro who scammed him, nor do I think it missed an opportunity to prevent his loss. So I don't consider it fair to direct Metro to refund Mr S, pay him compensation, or take other action to resolve this complaint.

### **My final decision**

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 20 February 2024.

Rachel Loughlin  
**Ombudsman**