

The complaint

Mr S complains that The Co-operative Bank Plc did not try and reclaim funds on his behalf that he sent in error.

What happened

Mr S accidentally made a faster payment to his credit card account instead of a third party e-money account, so he contacted Co-op to ask them to reclaim the funds he sent in error, but Co-op said they were unable to do this. Mr S made a complaint to Co-op.

Co-op did not uphold Mr S' complaint, so he brought his complaint to our service. Our investigator did not uphold Mr S' complaint. She said while Mr S felt Co-op hadn't adhered to the Payment Councils Voluntary Code of Practice, this code is in place as guidance only and it doesn't give specific information about every scenario. She said that as the payment was sent by a faster payment, Co-op had to adhere to the specific rules that apply to faster payments, therefore, under the circumstances, it was reasonable for them to advise him to contact the credit card company involved.

Our investigator said that the faster payment services allow electronic payments between banks, and occasionally things go wrong. So when this happens a Faster Payment Query (FPQ) can be raised to try to recover the funds. She said although there is no guarantee of this, the FPQ guidance is industry wide and must be followed by all banks that send/receive faster payments. She said this guidance contains examples of when a FPQ can and can't be raised, and the guidance states a bank can't raise a FPQ if the recipient of the money is known to the sender. Our investigator said that as the other account was in Mr S' own name, if the bank would have raised an FPQ when he asked them to recover the payment, it would've been rejected under these rules.

Mr S asked for an ombudsman to review his complaint. He said that even if Co-op had followed the FPQ process he feels that they failed him in line with Financial Conduct Authority (FCA) Principles 2.1 – in particular Principles 1, 6 and 7.

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.

Mr S has made a number of points to this service and I've considered and read everything he's said and sent us. But, in line with this service's role as a quick and informal body I'll be focusing on the crux of his complaint in deciding what's fair and reasonable here.

Mr S has mentioned the FCA Principles. Our service acts as an informal dispute resolution service for complaints about financial businesses. We look at the circumstances of individual complaints and, on a case by case basis, taking into account relevant industry guidance for example, make findings about whether a financial business has failed their customer. So I would be considering this as part of deciding what's fair and reasonable here.

I've noted the strength of feeling that Mr S has in that Co-op should have acted to recall the funds he sent in error. But it is important to note that Mr S had actually sent the funds to an account (his credit card) in his name here. He did not type an incorrect digit or pay these funds to somebody else. He made the payment via a faster payment.

Due to the nature of the faster payment, the payment had already been received by the third party company when Mr S had contacted Co-op, so they would have no recourse to directly recall this money for Mr S by preventing it from leaving Co-op when it had already been received by the third party bank. So I would expect Co-op to follow the FPQ in this instance.

The FPQ is an industry wide process to assist customers when a payment is made in error. It does not guarantee the funds can be recovered. But there are instances where Co-op can't raise an FPQ as it would get rejected. One of these is if the customer knows the beneficiary and can ask for the funds back themselves. Given that Mr S was the beneficiary, then Co-op would not be able to raise the FPQ for him as this would get rejected. And I don't consider that Co-op have acted against the FCA Principles.

It also could be argued that if Co-op had tried to raise a FPQ in these circumstances, then they wouldn't have been treating him fairly as they would be setting an expectation for him that they may be able to recall his funds for him, despite them knowing that the reclaim would be rejected. While there was confusion regarding calls Mr S had originally made to Co-op about recalling the funds, I've listened to a call he had with one of the supervisors from Co-op on 9 March 2023, who explained why they were unable to recall his funds under the FPQ. So it follows I do not require Co-op to do anything further.

My final decision

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 16 November 2023.

Gregory Sloanes
Ombudsman