

## **The complaint**

T complain that Metro Bank PLC failed to refund monies they lost as part of a scam.

## **What happened**

T are a Limited Company and are represented here by Mr B. Mr B explains that he was contacted by a person who told him his bank account had been compromised after his account with another merchant was hacked.

Mr B was persuaded that the funds remaining in the business account with Metro were at risk. Mr B stated that he moved funds to an account with another financial firm who I'll call Z.

Three payments were made to Z by Mr B using the debit card linked to his Metro account. In total Mr B paid over £3,000 to an account set up in his name with Z. It was later found that those funds were subsequently transferred from the account.

Mr B soon realised he'd been the victim of a scam and contacted Metro about it. Metro's initial handling of the issue was a little confused and they later made a £50 payment to T for the way they'd handled the issue.

Metro contacted Z about the funds, but they were no longer present in the account and couldn't be retrieved and no refunds were made to T.

Several months later, Mr B noticed an article in the press about scams and got back in touch with Metro and complained about their service and how his losses had been treated. Metro declined to refund T because he'd made the payments himself and Metro didn't believe that they were unusual enough for them to intervene at the time.

T brought their complaint to the Financial Ombudsman Service for an independent review and the complaint was looked into by one of our investigators. Evidence was sought from both parties and Mr B, on behalf of T, explained what had happened at the time. He believed Metro should refund him.

Metro provided details of their interactions with Mr B and data concerning the payments. After reviewing the evidence, the investigator explained that because the payments weren't unusual compared to how the account normally operated, and because Mr B had authorised the payments himself, the complaint couldn't be upheld.

Mr B disagreed with the outcome and asked for a further review of his complaint.

## **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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry

practice at the time.

I was sorry to hear of T's loss and the impact this scam has had on them. The first matter I need to address is the authorisation of the payments. It's common ground that Mr B sent the payments from T's account to the account in his name with Z, before they were then transferred to another account. So, even though he didn't intend to pay a fraudster, the payments were 'authorised' under the Payment Services Regulations. Metro had an obligation to follow T's payment instructions, and T are presumed liable for the loss in the first instance. But that's not the end of the story.

*Should Metro have prevented the payment from being made?*

I accept that T have been the victim of a scam, but I can only ask Metro to provide a refund if I consider it has done something wrong and has acted unreasonably. There is a voluntary code that applies to APP scams like this one - The Lending Standards Board's Contingent Reimbursement Model Code (the CRM Code). But the CRM Code doesn't apply to payments made by card, which is the payment method used in this case, so I can't apply it.

Metro is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. But Metro also has an obligation to be on the lookout for, and to protect its customers from, potentially falling victim to fraud or scams. This includes monitoring accounts and identifying suspicious activity that appears unusual and out of character. In situations when potential fraud is identified, I would expect Metro to intervene and attempt to prevent the loss.

As I've explained above, I consider that as a matter of good practice Metro should have been on the lookout for suspicious activity. So, I've first considered whether the payment requests T made were unusual or uncharacteristic. Having considered T's account activity in the months before the scam I agree with the investigator the scam payments weren't suspicious. I've no doubt the way the payments were made was calculated by the scammers to minimise the risk of Metro identifying them. What that means here is that I don't think Metro missed an opportunity to intervene prior to the loss of the funds from T's account.

The details available from Z show that the funds were moved on from the account in Mr B's name soon after they arrived making it difficult for either Metro or Z to prevent the loss to Mr B.

I don't think that Metro could reasonably have identified these transactions were part of a scam and as Mr B unfortunately authorised them himself, I can't recommend that Metro refund them to T. I acknowledge the losses that T suffered which were the result of an unscrupulous scammer, but I'm unable to uphold this complaint.

I do recognise the confused response from Metro and the poor service which they gave to T. Although I didn't see any area where this poor service hampered the investigation of T's losses. Overall, I think their payment was a reasonable way to recognise the service they provided to T.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 28 July 2023.

David Perry  
**Ombudsman**