

## The complaint

Mr K complains that Metro Bank PLC (Metro Bank) is refusing to refund him the amount he lost as the result of a scam.

Mr K is being represented by a third party. To keep things simple, I will refer to Mr K throughout my decision.

## What happened.

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mr K received cold calls from a business called 24 Options, also known as Rodeler (X), which started around June 2017. X explained investment opportunities to Mr K which Mr K initially declined to take part in.

Mr K did some online research into the investments X had described and decided they looked promising. When X called Mr K again later in the year he agreed to start investing.

X appeared very professional and experienced. It explained that Mr K had a dedicated account manager and directed him to its online trading platform which also looked very professional. Mr K opened an account on the platform having provided his personal identification documents and was able to login and navigate the platform as he would expect from any legitimate investment business.

Given the professional setup of X Mr K was comfortable that he was dealing with a legitimate business.

X told Mr K he would receive profits of two to three times what he was willing to invest, and that X would take a commission. X directed Mr K to make trades via the platform which he agreed to.

Mr K could see his investment was growing and during the time he invested with X he was able to make withdrawals which added to his confidence with X. Although in late 2019 Mr K had made a substantial profit and requested the withdrawal of his funds, but X persuaded Mr K to make another investment and all his funds were lost.

Mr K was no longer able to access the trading platform and realised he had fallen victim to a scam.

Mr K made payments into the scam via his account held with Metro Bank using his debit card, and another account he held at another bank.

Below is a table showing the payments Mr K made into the scam from his Metro Bank account, representing a total loss to Mr K of £34,350:

<u>Date</u>	<u>Merchant</u>	<u>Amount</u>
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22 December 2017	Rodeler	£10,000
22 December 2017	Rodeler	£10,000
04 January 2018	Rodeler	- £10,000 (refund)
20 February 2018	Rodeler	- £7,000 (refund)
20 February 2018	Rodeler	- £3,000 (refund)
01 May 2018	Rodeler	£3,000
03 May 2018	Rodeler	£5,000
04 May 2018	Rodeler	£1,000
04 May 2018	Rodeler	£2,000
09 May 2018	24 Option	£2,000
14 May 2018	24 Option	£2,900
14 May 2018	Rodeler	£3,000
17 May 2018	Rodeler	£4,000
31 August 2018	24 Option	£1,900
10 September 2018	Rodeler	£1,100
02 October 2018	Rodeler	£1,000
02 October 2018	Rodeler	£1,000
26 October 2018	24 Option	£1,000
06 December 2018	Rodeler	£850
12 December 2018	24 Option	£800
09 January 2019	24 Option	£500
29 January 2019	24 Option	£500
26 February 2019	24 Option	£300
04 September 2019	Rodeler	£500
05 September 2019	Rodeler	£500
02 October 2019	24 Option	£500
03 October 2019	24 Option	£500
03 October 2019	24 Option	£500

Our Investigator considered Mr K's complaint and didn't think it should be upheld. Mr K disagreed so this complaint has been passed to me to decide.

### **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.

It has not been disputed that Mr K has fallen victim to a cruel scam. The evidence provided by both Mr K and Metro Bank sets out what happened. What is in dispute is whether Metro Bank should refund the money Mr K lost due to the scam.

#### *Recovering the payments Mr K made*

Mr K made payments into the scam via his debit card. When payments are made by card the only recovery option Metro Bank has is to request a chargeback.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Unfortunately, Mr K made his complaint to Metro Bank outside of the allowed time to raise a chargeback and therefore Metrobank has been unable to attempt a chargeback for the payments Mr K made into the scam.

I have also considered whether Mr K should receive a refund for the payments he made into the scam under the Contingent Reimbursement Model (CRM) Code. But the CRM code doesn't cover payments made by debit card so it would not apply.

With the above in mind, I don't think Metro Bank had any recovery options available to it for the payments Mr K made.

*Should Metro Bank have reasonably prevented the payments Mr K made?*

It has been accepted that Mr K authorised the payments that were made from his account with Metro Bank, albeit on X's instruction. So, the starting point here is that Mr K is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Metro Bank should have been aware of the scam and stepped in and questioned Mr K about them. And if it had questioned Mr K would it have been able to prevent the scam taking place.

Mr K made two large payments of £10,000 each to X on 22 December 2017 which due to their value resulted in his card being stopped and a conversation between Mr K and Metro Bank taking place. A recording of this call is no longer available which isn't surprising given the time that's passed but I think it's reasonable to assume the payments were discussed and that at the very least Mr K confirmed he had made the payments himself.

I don't think that Metro Bank would have been aware at the time Mr K made the payments that he was falling victim to a scam. X was regulated in another country and had passporting rights to offer financial services to UK customers.

Warnings were available on IOSCO from 2013, 2014 and 2015. But all of these relate to the X offering financial services when it wasn't authorised or licensed to do so. And whilst that could be an indication of a scam, I'm mindful X was regulated, had been since 2013, and had passporting rights into the UK since 2014, which it still held at the time of the payments.

The FCA also didn't publish a warning about X until 1 June 2020, which is after Mr K made the payments, therefore this warning would not have been available.

With the above in mind, I don't think it would have been reasonable for Metro Bank to have stopped the payments Mr K was attempting to make. But even if it did intervene, I am satisfied Mr K would have continued with the investment. I say this because I think Mr K had complete trust in the scam that was presented to him, he has told us how persuasive and credible X appeared to be and that it had built confidence with him over the months leading up to the payments being made.

So, Metro Bank is not responsible for Mr K's loss.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 25 December 2023.

Terry Woodham  
**Ombudsman**