

The complaint

Miss R complains that Metro Bank PLC won't refund the money she lost after she fell victim to advance fee scam.

What happened

Miss R was interesting in having a media wall built at her home. A friend shared with her a company profile/page on a social media platform, which the friend had seen but hadn't used themselves. Miss R says the company posted pictures with a well-known personality of work they'd completed for them. Miss R made an enquiry with the company/individual through the social media platform and got a quote for the works. She considered the quote to be reasonably priced. Miss R's contact with the individual moved over to a messaging app.

Miss R proceeded to make two payments to the details given to her by the company/individual – one for £1.00 and another for £1,000 as a deposit for the works to be completed.

After making the payment, Miss R didn't hear from the individual and they didn't arrive at her home on the arranged date. Due to no contact, Miss R contacted Metro to raise a fraud scam on 29 August 2022. Following this, the individual contacted Miss R and provided numerous reasons as to why they'd not been in touch and hadn't started the works.

Miss R explained that the individual later threatened her. She told the individual/company that she no longer wished to proceed, and she asked for a refund but this has not been received.

Following Miss R's fraud claim, Metro investigated but didn't agree to reimburse her. It considered her complaint under the Lending Standards Board's Contingent Reimbursement Model ("CRM Code"). It wrote:

'It was felt that you were liable to the scam as there was no reasonable basis for belief that you were dealing with a genuine seller. Although you found the company you had paid on Companies house, you did not carry out any effective and thorough research to determine the company's legitimacy. For instance, there had been multiple independent reviews [online] and [on a social media site] relating to the company. Furthermore, you did not meet the seller, and offered to pay a deposit before they arranged a date for inspection of the workspace. Overall, we believe that more could have been done to justify that the seller was providing a legitimate service'.

Overall, Metro considered Miss R was liable for the money she lost to the scam. It attempted to recover her funds from the receiving bank (account the funds were sent to) but no funds remained.

Miss R was unhappy with Metro's response and referred the complaint to this service. One of our Investigator's looked into the matter and didn't uphold the complaint.

When considering the payments Miss R made under the CRM Code, our Investigator thought there was enough going on that Miss R ought to have had some concerns about the transaction she was making and so, he didn't think Miss R had met her requirements under the CRM Code. He also didn't think it would have been apparent when making the payments that Miss R was at risk of being scammed. He also didn't think Metro needed to provide an effective warning under the CRM Code or that it ought to have contacted Miss R before allowing the payments to be processed.

Miss R didn't agree with our Investigator's view. As no agreement could be reached, the complaint has now been passed to me for a final decision.

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.

I'm aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is a fair and reasonable outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

Having considered everything, I can see no basis on which I can fairly require Metro to refund the money Miss R sent. I can appreciate that this outcome is not the one Miss R was hoping for and I can understand why she wants to try and recover this money. But having thought about Metro's actions, I am unable to say it has a responsibility for refunding the money Miss R sent. I will explain why.

Where a customer has been the victim of a scam it may be appropriate for the bank to reimburse the customer, even though payments have been properly authorised. Of particular relevance to the question of what is fair and reasonable in this case is the CRM Code. As I've said above, the CRM Code requires firms to reimburse customers who have been the victims of APP scams like this, in all but a limited number of circumstances. A Firm may choose not to reimburse a customer if it can establish that*:

- The customer made payments without having a reasonable basis for believing that:
 - the payee was the person the Customer was expecting to pay;
 - the payment was for genuine goods or services; and/or
 - the person or business with whom they transacted was legitimate.

**Further exceptions outlined in the CRM Code do not apply to this case.*

Taking into account all of the circumstances of this case, including the characteristics and complexity of the scam, I don't think Miss R had a reasonable basis for believing the payments were for genuine goods or services; and/or the person or business with whom she transacted was legitimate. I say this because:

- Miss R told our Investigator about a meeting that was due to take place prior to her making the deposit payments, which the individual did not arrive for. For ease, I'll refer to this as the pre-meeting/to measure up the work. When they didn't arrive,

Miss R sought to confirm if the individual would still be starting the works on the agreed date and asked when the deposit was to be paid. It would appear based on what I've seen that Miss R seemingly took the word of the individual, whom she'd not met in person and proceeded to make the deposit payments despite them not showing up for the pre-meeting. I think this ought to have made her pause for thought and proceed more cautiously.

- As mentioned above, Miss R hadn't met the individual for the company. She's referred to a picture of a person with the known personality on the social media page in relation to the advertised work it said it had completed for them. But Miss R wasn't aware if this was infact the individual she was in contact with as she'd not met the individual or seen them face to face. I know Miss R found the endorsement of the well-known personality to be persuasive and she says she had no reason to believe that the individual/company were not legitimate if that individual was providing good reviews. I'm afraid I don't agree. Whilst the pictures and social media page might have shown a personality that Miss R was familiar with, on balance, I don't find this aspect in and of itself convincing that the payments she was making were for genuine goods or services; and/or the person or business with whom she transacted was legitimate.
- Miss R says she checked Companies House for the company and saw it was listed. She also made the payments to the person named on Companies House. This, alongside the endorsement from the known personality, Miss R says led to her thinking the company was legitimate. Miss R adds that she didn't see any negative reviews about the company until after she made the payments and reported the scam. I've thought carefully about what Miss R has told us. Having looked at the company information myself, I can see there was an application in April 2022, prior to the payments Miss R made, to strike off the company. There are further entries about the strike off in May and June 2022. While I note the information from June 2022 indicates the strike off was suspended, I think this information more likely than not would have been seen by Miss R when she checked Companies House. In turn, I think this information ought to have prompted her to ask further questions prior to making the payments.

I'm mindful that, taking any of the individual factors above in isolation, they may not have been enough to have prevented Miss R from proceeding to make the payments. But when taken collectively and considering the specific circumstances of this case and the factors in the round, on balance, I think that there was enough going on and sufficient red flags that Miss R ought reasonably to have been concerned that things weren't as they seemed.

Overall, I don't think I can fairly conclude that Miss R had a reasonable basis for believing that she was making payments towards genuine goods or services, or that the person or business she was dealing with was legitimate. So, I'm not persuaded that Metro should have reimbursed Miss R's loss because of any obligation under the CRM Code.

Should Metro have done anything else to prevent the scam?

Good industry practice requires that regulated firms such as Metro engage in the monitoring of customer accounts and to be on the lookout for suspicious or out of character transactions with an aim of preventing fraud and protecting customers from financial harm. And under the CRM Code, where it identified a risk of a customer falling victim to an APP scam, it was required to provide that customer with an “effective warning”.

We now know, with the benefit of hindsight, that Miss R was falling victim to a scam. But based on the information that was available to it at the time, I don’t consider Metro would’ve had any reasonable basis for coming to that conclusion. I say this because the account was newly opened and so there wasn’t a lot of previous activity on the account.

The payments weren’t for a particularly large amount (although I appreciate it is a lot of money to Miss R) and didn’t leave the balance of her account at a particularly unusual level – there was still a healthy balance in the account. So, I don’t think the payments will have looked suspicious or would have stood out to Metro and I wouldn’t expect it to have identified a scam risk as a result of it.

It follows, that I don’t think Metro was required to provide an effective warning under the CRM Code, or that it has failed to meet its obligations under the CRM Code by not doing so.

Recovery of funds

I’ve also considered whether Metro did all it could to try and recover the money Miss R lost, once she had reported the scam. I can see Metro contacted the receiving bank once it was aware of the scam, but unfortunately no funds remained. So overall, I don’t think there was anything more Metro could’ve done to recover Miss R’s funds.

It’s very unfortunate Miss R has lost this money in this way, and I understand the whole experience has been deeply upsetting. I have a great deal of sympathy for her and I don’t underestimate the impact this has had. But in the circumstances, I don’t think I can fairly or reasonably ask Metro to refund her the money she sadly lost.

My final decision

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

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss R to accept or reject my decision before 25 October 2023.

Staci Rowland
Ombudsman