

The complaint

Mr O complains that Metro Bank PLC won't refund money he lost, after he fell victim to a scam.

What happened

The background to this complaint is well-known to both parties, so I won't repeat it all in detail here. But in summary and based on the submissions of both parties, I understand it to be as follows.

Mr O saw a computer he was interested in on a well-known social media messaging application. Mr O thought the price was good and so he contacted the seller and agreed to purchase the computer. Using his Metro debit card, Mr O made the following payments, totalling £753.80, to a money transfer service, the details of which were provided to him by the seller;

2 November 2022	£351.90
9 November 2022	£401.90

Mr O has said he became concerned and realised he'd been scammed when he didn't receive the goods as expected and when the seller blocked him on the messaging application. Unbeknown to Mr O at the time, he had been dealing with a fraudster.

Mr O raised the matter with Metro. Metro looked into the complaint that Mr O raised and issued its final response on 23 December 2022 not upholding the complaint. In summary, it said it hadn't been able to find that a bank error had occurred and it didn't consider there were any grounds for it to raise a Chargeback.

Unhappy with Metro's response, Mr O then brought his complaint to our service. One of our Investigators looked into things but didn't uphold the complaint. In summary, she didn't think Metro had missed an opportunity to identify the payments were being made in relation to a scam. As well as this, our Investigator also didn't think Metro acted unreasonably in not raising a Chargeback claim.

Mr O didn't agree with our Investigator's view. As agreement couldn't 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.

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'm sorry to hear of what's happened to Mr O, and I can understand entirely why he feels so strongly that this money should be returned to him. But having thought very carefully about Metro's actions, I think it did act fairly and reasonably in allowing the payments to leave his account. I also don't think it could have done any more than it did to try and recover the money.

Banks and other payment services providers are obliged to carry out their customers payment instructions. There is no dispute here that Mr O authorised the transactions, so he is presumed liable for the loss in the first instance. But that isn't the end of things, the relevant regulations and industry guidance makes it clear that banks have a duty to protect consumers from the risk of financial harm, including fraud and scams.

Metro, along with other payment services providers, should be monitoring accounts and be on the lookout for unusual transactions or other signs of fraud. Metro has a difficult balance to strike in how it configures its systems to detect unusual activity or activity that might otherwise indicate a higher than usual risk of fraud. There is a delicate balance to be struck. There are many millions of payments made each day and it would not be possible or reasonable to expect a bank to check each one.

I've thought about whether Metro ought to have intervened before allowing the payments Mr O made to be progressed. But having thought about this carefully, I'm not persuaded Metro ought to have intervened in these payments. I don't think there was anything so unusual or uncharacteristic about the payments Mr O made, that I think ought to have alerted Metro that Mr O may have been at risk of financial harm. I don't think they would have appeared as suspicious in nature to Metro, when compared to how Mr O typically ran his account. So I don't think Metro has missed an opportunity to prevent the payments being made, nor to have identified that they were potentially being made as part of a scam.

Finally I've thought about whether Metro could have done more to recover Mr O's payments when he reported the scam to it. Chargeback is a voluntary scheme run by Mastercard whereby it will ultimately arbitrate on a dispute between the merchant and customer if it cannot be resolved between them after two 'presentments'. Such arbitration is subject to the rules of the scheme — so there are limited grounds on which a Chargeback can succeed. Our role in such cases is not to second-guess Mastercard's arbitration decision or scheme rules, but to determine whether the regulated card issuer (i.e. Metro) acted fairly and reasonably when presenting (or choosing not to present) a Chargeback on behalf of its cardholder (Mr O).

Mr O's own testimony supports that he sent his funds to a money transfer service to facilitate the transfers. Its only possible to make a Chargeback claim to the merchant that received the disputed payments. In the circumstances of this case it's most likely that the money transfer service would have been able to evidence it had done what was asked of it. So, any Chargeback was more likely than not destined to fail and therefore it follows that I'm satisfied that Metro's decision not to raise a Chargeback request was fair in the circumstances of this case.

I do have a great deal of sympathy for the situation that Mr O finds himself in and it is unfortunate that he sent money and didn't receive anything. But for the reasons I've explained I'm not persuaded Metro has done anything wrong and so it wouldn't be fair or reasonable for me to ask it to refund Mr O the money.

My final decision

My final decision is that I don't uphold this complaint against Metro Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 6 September 2023.

Stephen Wise
Ombudsman