

The complaint

Mr B has complained Metro Bank PLC won't refund him for transactions from his account he didn't authorise.

What happened

Mr B lives abroad. He holds an account with Metro Bank. All the correspondence for this account was sent to a UK address Mr B has.

In August 2020 Mr B came over to the United Kingdom. An account he held with another bank (who I'll call H) had been blocked. H had asked Mr B to go to a branch to sort this out.

When he was here Mr B noted there was no correspondence at his UK address and he immediately suspected someone may have stolen the post. He also visited a branch of Metro and realised there'd been considerable fraud on his current account from 31 July 2020 to date.

H had identified fraud on Mr B's account with them and arranged £12,400 to be refunded. Payments of £8,900 and £2,000 had been transferred firstly from Mr B's savings account with H into his current account. Payments of £8,900 and £3,500 had then been made into Mr B's Metro account. Numerous debit card, mobile payments and online card transactions had then been made from Mr B's Metro account totalling more than £34,500.

Mr B complained that more than £18,000 was missing from his account and asked Metro to refund him. They wouldn't agree to do so. Mr B brought his complaint to the ombudsman service.

Despite delays in getting all the information we required, our investigator was able to review phone calls provided by Metro for both August and September 2020. Our investigator noted that those in August didn't appear to match the voice of Mr B.

Mr B had also provided evidence from both H and his mobile phone provider. This confirmed his phone had been blocked and a SIM swap carried out.

Overall our investigator believed there was enough evidence to show Mr B hadn't authorised the transactions made from his account during the disputed period. She asked Metro to refund him. She noted that Metro had refunded disputed debit card transactions in March 2021 totalling over £790. They subsequently refunded a further £5,471.72 on 29 June 2021 but were unable to confirm what this related to.

Metro wouldn't refund the remainder of the money. Our investigator re-confirmed her findings and also asked Metro to add 8% simple interest a year to the money that hadn't been refunded, and to the refunded money for the period Mr B was without funds. As there'd been delays in getting this sorted and plenty of opportunity for Metro to have resolved this complaint much earlier, she felt it was fair they paid Mr B £350 for the trouble caused.

Metro continued to believe they'd never had an opportunity to investigate this properly as

Mr B had never been available for them to talk to him and get things sorted.

As the complaint couldn't be resolved, an ombudsman has been asked to make a 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.

Having done so, I've reached the same conclusion as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

When considering what is fair and reasonable, 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 relevant time.

The regulations which are relevant to Mr B's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks to refund customers if they didn't make or authorise payments themselves. Other factors do apply but nothing that specifically seems relevant in Mr B's case.

To help me reach this decision, I've considered evidence provided to us by Metro and Mr B. I've also noted the detail in our investigator's views of 11 May and 20 October 2021 but feel no need to rerun some of the arguments made there.

I'm also not going to run through the disputed transactions. Metro hasn't been able to confirm what the refund of £5,471 refers to. However I think it's clear what's still in dispute: all the payments made in a number of ways from 31 July to 28 August 2020. Mr B has already been refunded £13,400 from H for the original withdrawals from his accounts with H. That money did fund some of the disputed transactions from Mr B's Metro account. I also note that £500 was transferred on 17 August into Mr B's savings account with H so he's also had access to that money throughout as well.

I don't believe there's much room for discussion here. It seems clear to me that Mr B didn't authorise these transactions. I say this because:

- Evidence from Mr B's mobile phone provider dated 28 October 2020 (which I believe has been shared with Metro on numerous occasions) that Mr B's phone was subject to a SIM swap. This explains how the fraud took place.
- Mr B noted that there was no correspondence when he went to his UK address to check post that had been received.
- A new debit card had been sent to Mr B's UK residential address. Metro has provided contradictory evidence on this point and suggested no card prior to the card expiry in September 2020 had been issued. I think this is unlikely. It's clear cash machine transactions were carried out during the period of disputed transactions. Metro has even refunded these. Metro hasn't been able to show these could have been done without the card being present. There's also clear evidence to show a new PIN was requested by the fraudster. I believe clear opportunity has been demonstrated to show how someone had enough information available to them to commit this fraud.

- Metro's own evidence shows a new mobile device was registered for Mr B's current account. This device was then used to make further transactions.
- The voice on calls made to Metro in August 2020 don't sound as if they were Mr B.
- Metro hasn't disputed that Mr B wasn't present in the UK at the time of the disputed transactions. I accept the detailed evidence Mr B has provided around this showing flights and other supporting information.
- Metro has refunded all those transactions made using chip and PIN. They've also refunded more than £5,470 of other transactions.

Putting things right

As I'm satisfied Mr B didn't authorise the disputed transactions, Metro will need to refund him appropriately. This is the total of the disputed transactions minus £13,400 (refunded by H), £500 (credited to Mr B's savings account with H) and the two sets of refunds Metro has already made.

I know Mr B raised a number of other issues about how his complaint had been dealt with. I agree that Metro has hardly covered themselves in glory when I look at how they dealt with his complaint. They've had numerous opportunities to resolve this. It seems odd that they haven't even though they seem to accept Mr B didn't make or authorise the disputed transactions.

I've considered Metro's concern they weren't able to discuss what had happened with Mr B. Whilst I accept they have internal procedures when looking at fraud complaints, I draw their attention to the requirements under the PSRs that a customer should be promptly refunded. Perhaps process rather than customer service has rather got the better of them here. Like our investigator I think it's fair and reasonable that Metro pay Mr B £350 for the trouble caused.

It's not this service's role to penalise businesses so it would not be fair to ask them to pay more.

8% simple interest a year will need to be added to the money for the period Mr B was without these funds from the date of the original disputed transactions until 1 March 2021, 29 June 2021 or the date of settlement, as applicable.

Mr B has raised his concerns about his account being currently blocked by Metro. I suspect they will want to speak with him to ensure they are removing blocks appropriately. I don't see anything wrong with that.

My final decision

For the reasons I've given, my final decision is to instruct Metro Bank PLC to:

- Refund the disputed transactions between 31 July and 28 August 2020 minus those refunds or other credits referred to above;
- Add 8% simple interest a year for the period Mr B was without these funds from the date of the original disputed transactions until 1 March 2021, 29 June 2021 or the date of settlement, as applicable; and
- Pay Mr B £350 for the trouble caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 24 March 2022.

Sandra Quinn
Ombudsman