

## The complaint

Mr M complains that Metro Bank PLC won't refund the money he lost after falling victim to a vehicle purchase scam.

## What happened

The circumstances of this complaint are well known to both parties, so I will summarise them here. Briefly, Mr M found a utility vehicle listed for sale on an auction website. Unfortunately, Mr M wasn't dealing with a genuine seller and was instead interacting with a fraudster. Mr M was duped into making two payments for a total of £4,200 to bank account details he'd been given.

Metro is a signatory of the Lending Standards Board's Contingent Reimbursement Model (CRM) Code which requires firms to reimburse customers who have been the victims of authorised push payment (APP) scams like this one in all but a limited number of circumstances. Metro says one or more of those exceptions applies in this case. In its final response letter, Metro considered it had taken the necessary steps to protect Mr M by providing him with a scam warning. It said Mr M didn't take reasonable steps to confirm this wasn't a scam because he paid outside of the auction website's platform and he didn't make a video call to see that the vehicle was in the seller's possession. Metro did try to recover the money Mr M had sent, but sadly no funds remained.

Mr M was unhappy with the bank's position and complained to us. He pointed out he thought he was using the auction website because he received an email invoice and a text message that looked like genuine messages from the platform. He said he'd paid the account details from the invoice and it was not his fault that Metro has not signed up to Confirmation of Payee, which would have identified that the payee details did not match the person he'd been dealing with. He explains the seller's account had been a member of the auction website for over ten years and had 100% positive feedback for transactions they had made. Mr M felt he'd *"[I] acted in a sensible way, checked the messages & invoice came from eBay, paid the money into a account."* [sic]

Our Investigator thought the bank should have fully reimbursed Mr M. He acknowledged that Metro had given Mr M a warning about scams, but he didn't think the warning did enough to bring to life what a vehicle scam looks like. He considered the actions Mr M took before agreeing to buy the vehicle, including checking the vehicle's registration number and MOT history online, were reasonable. He noted the seller had around 350 positive reviews for previous sales on the auction website and that the paperwork purporting to come from the auction website looked authentic. He thought the explanation the fraudster had given about why the account on the auction website was held in a different name was plausible.

Metro disagreed and asked for a decision from an Ombudsman. It said it would expect someone buying a vehicle they'd not seen in real life to arrange a video call to see the car in the possession of the seller. It also thought it would have been prudent for Mr M to have paid a deposit rather than the full amount. It pointed out Mr M didn't follow the auction website's safety advice by transacting outside of its platform.

As no agreement could be reached, the matter has now been referred 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.

Having done so, I'm satisfied that Metro should have refunded the money Mr M lost. I'll explain why.

The starting point in law is that Mr M is presumed liable for any transaction he authorises. He did consent to making the disputed payments, even though he'd been tricked into doing so. But Metro has signed up to the CRM Code. The CRM Code says that firms should refund customers that fall victim to an authorised push payment scam like this one except in a small number of circumstances. It is for Metro to establish that a customer failed to meet a requisite level of care under one or more of the listed exceptions set out in the CRM Code.

The exceptions relevant to this case are:

- The customer ignored an Effective Warning in relation to the payment being made.
- The customer made the payment without 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.

I'm not persuaded any of these exceptions apply in Mr M's case.

Metro says Mr M failed to meet his level of care under the CRM Code because he ignored an Effective Warning that applied to the payments being made. But Metro is not sure exactly what information was presented at the time Mr M made the payments. Our Investigator thought it probable that it was the "shopping" warning, but the bank's records suggest it was "something else". It seems likely that Metro provided at least some generic information about scams to Mr M at the time he made the payments, even though it cannot say exactly what that information was or whether it would have been enough to bring to life what a vehicle purchase scam looks and feels like. As such, I am not persuaded that the information Metro presented to Mr M should have resonated with him to such an extent that it should have had a material effect in preventing the vehicle purchase scam that took place.

In any case, the two payments Mr M made were unremarkable. They didn't drain his account balance and looking at his bank statements, the amounts were similar to other genuine transactions he had made in the months leading up to the scam. I don't think the amounts of the payments or the fact they were going to a new payee would have made them stand out enough for Metro to have been concerned that Mr M might have been at risk of financial harm from fraud at the time that he made them. This means that Metro was not obligated to provide Effective Warnings under the CRM Code as it didn't need to identify an APP scam risk as part of each payment journey. Overall, I don't think Metro can fairly say that Mr M fell below his requisite level of care because he ignored an Effective Warning, so I've gone on to consider whether Metro can choose not to refund Mr M for any other reason.

Metro has raised concerns that Mr M didn't try to view the vehicle first and that he could have protected himself by paying a deposit and transacting on the auction website's platform. The exception to reimbursement here asks the question as to whether Mr M had a reasonable basis for believing the goods he was looking to obtain, and the party he sought to obtain them from, were legitimate. I'm not persuaded that Metro has shown this exception

to reimbursement applies.

I've thought about the steps Mr M took to reassure himself about the legitimacy of the transaction and whether it was reasonable for him to proceed with the payments. Mr M was seeking to buy a niche utility vehicle. It has not been possible to obtain an indicative valuation of its typical sale price from recognised industry trade guides. Mr M has explained that he'd looked at other similar vehicles on the auction website and *"all other models were in the same ball park regarding cost."* My own research on this point broadly aligns with what Mr M has described and so, on balance, I'm not persuaded that the price the vehicle was advertised for was too good to be true and ought to have raised concerns in and of itself.

In addition to this, the correspondence Mr M received didn't raise any suspicions with him at the time. Mr M has explained he thought he was dealing with the genuine auction website. I can see why he would have thought this. The invoice he received is convincing. At first blush, it appears to have been sent from the genuine auction website's email address. The message uses the auction website's font and branding and it contained hyperlinks which go back to the listing.

The checks Mr M did, such as looking up the vehicle's MOT history and its registration plate did not show up any concerns. The explanations the seller gave Mr M about the auction website account belonging to his girlfriend were plausible. Mr M explains that the photographs of the vehicle tied up with the situation he'd been told about it being located on a farm. I don't think it was unreasonable for Mr M to place weight on the positive feedback the seller's account had received during the ten years it had been active on the platform. Feedback is an integral part of the buying and selling community on the platform and I can see why Mr M would have taken confidence from the information he could see about the seller's previous conduct on the site. I don't think he missed anything that would have obviously alerted him to the possibility of the seller's account being hacked or the listing being falsified.

Metro has far superior knowledge of what scams like this look and feel like so it's not surprising that the bank can think of further steps and checks that Mr M could have taken to try and protect himself. Mr M has explained that he proceeded after being satisfied with the communication with the seller and after he'd undertaken his own research. People don't want or expect to be scammed and I think Mr M took reasonable and appropriate steps to try and protect himself. The information Mr M had indicated he was buying a vehicle from a legitimate seller that had a good reputation. The fact that the bank can think of additional things Mr M could have done does not mean that he did not do enough.

I'm satisfied these points cover all the objections made by Metro. As such, I don't think Metro has sufficiently demonstrated this exception to reimbursement can fairly be applied. This isn't to say there's nothing else at all Mr M might have done before proceeding with the sale. But that isn't the question to be answered. The issue here is whether his basis of belief at the time was reasonable and I consider that it was.

In summary, I think Mr M has met his requisite level of care under the CRM Code. As such, Metro should refund the funds he lost to the fraudster in full, in line with the CRM Code.

### **My final decision**

For the reasons I've explained, my final decision is that I uphold Mr M's complaint against Metro Bank PLC. I require Metro Bank PLC to:

- Refund the £4,200 Mr M lost to the fraudster

- Pay 8% simple interest on this amount from the date Metro declined Mr M's claim under the CRM Code to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 September 2022.

Claire Marsh  
**Ombudsman**