

The complaint

Miss N complains that Metro Bank PLC removed funds from her account without authority and lodged a fraud marker against her.

What happened

Miss N explained that she was contacted by a person (M) on a popular social media site to learn how to invest funds online. Miss N was asked to set up an account with an online crypto merchant. Miss N was told that the funds would be invested, and a commission earned. Miss N then received a payment into her bank account which she transferred to another of her accounts before sending to the crypto merchant.

Metro received a report from another bank that had sent the funds to Miss N's account. The report said the owner of the account had been scammed and the money received by Miss N was the result of fraud.

About three weeks after receiving the payment into her account, Metro removed £239.95 from Miss N's account and sent it to the bank account of the person who had claimed the funds were the result of a scam. Miss N told Metro that these were her funds and she wanted them back.

Miss N believed the money was taken for costs associated with the investigation into the scam. Metro declined to return the funds and issued a notice to close the account. After the account was closed, Miss N's remaining funds were left in the account for a period before she was able to receive them. Miss N complained to Metro about the situation and she also believed that they'd registered a fraud marker against her.

Metro investigated Miss N's complaint and didn't change their position, but they confirmed they hadn't registered any markers against Miss N. So, Miss N then brought her complaint to the Financial Ombudsman Service for an independent review where it was looked into by one of our investigators. Both parties were asked for information about the situation and Miss N explained what had happened and that she believed she was also the innocent victim of the scammer. Miss N, through her representative sent a statement about the events, and copies of letters sent to Metro describing the situation and Miss N's vulnerabilities.

Metro provided information about the fraudulent funds and details of how Miss N had moved them to the crypto merchant. Metro believed that they had the authority to remove the £239.95 from Miss N's account because of the scam. Our investigator issued a report that partly upheld Miss N's complaint. He thought that it was reasonable for Metro to return funds from the scam and close Miss N's account but didn't think that Metro had done enough to return Miss N's remaining funds to her. He recommended that Metro pay Miss N £100 compensation and add 8% simple interest to the funds that Metro held onto.

Metro agreed with the investigator's recommendations, but Miss N didn't, believing that the funds taken by Metro were hers and not part of the scam. Miss N wanted a further review of her complaint which had now been passed to me for 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.

I don't think it's contested by either party that once the funds were received into Miss N's account, she then sent those funds to a crypto merchant. What isn't agreed is that Metro believe Miss N was responsible for the funds and Miss N says she was an innocent victim of the scam as well.

If the overall evidence shows that Miss N was more than likely involved in the fraud, then we wouldn't generally object to funds being returned to the person that was scammed. On the other hand, if it's apparent that Miss N was also a victim, the situation concerning the removal of funds becomes less clear.

Miss N has explained that she was also the victim of the scam and produced a written statement about her involvement – which in summary was that she was asked to move money but thought it was to invest in crypto trading.

Having looked at the evidence, it's apparent that once the funds arrived into her account, Miss N moved them on within a few minutes to another account and then sent them to the crypto merchant. At the same time, Miss N also moved her own money from her account to another account and later said:

"The money that was fraud money was £1,172.34 and got cleared out my account in two transactions within 10 minutes the rest are account to account transactions from my main to my savings as I didn't want to loose my money from when my card got blocked."

I asked what Miss N meant by the above comment and she explained that after moving the funds, M told her that her card would be blocked, which was why she moved the funds.

At the point Miss N received the funds into her account it was functioning properly and Metro weren't aware at that stage that there was an issue with the incoming funds. Miss N's card wasn't blocked at that point and the statements show her card continued to be used. Miss N's comment seems to indicate that she anticipated there might be a problem with her account.

The actions of swiftly moving fraudulent funds to another account or to another merchant are often associated with the account holder having some knowledge of what's going on. On it's own I don't think this would be enough here to consider Miss N had knowledge of the fraudulent funds, but together with the transfer of her own funds and her comment that she did it to protect her funds from possible future problems after being told by M– this leads me to conclude that Miss N had at least some understanding that her arrangement with M might not be entirely straight forward. I think on balance that Metro's removal of funds from her account was reasonable.

I understand Miss N believes the funds were taken as some form of investigation expenses, but that's not the case here. Metro's evidence is that they were returned to the original account that suffered the loss from the scam, something that Metro are able to do based on the terms of the account.

I've taken into account Miss N's representative's comments that Miss N was vulnerable at the time, which is why I think that Metro's decision not to register a fraud marker against Miss N was the correct one.

Closure

Miss N's account was closed after Metro gave her seven days' notice. The terms of the agreement between Miss N and Metro allow both parties to end their relationship and Metro chose to close her account after a review of it. The terms allow immediate closure under certain circumstances, but Metro gave Miss N seven days' notice. So here I think that it was reasonable for Metro to have closed the account as they did and I won't be asking them to change anything about the closure.

After the closure of Miss N's account, she was left without her remaining funds for some time and our investigator recommended that Metro pay Miss N £100 for this unnecessary delay and to include simple interest at 8% for the time she was without her funds. Metro accepted this and I think this was a reasonable way to deal with the delayed payment and I won't be asking Metro to do anything more about this.

Putting things right

In order to settle this complaint, Metro are to pay Miss N £100 and unless already paid, to calculate simple interest at 8% applied to the funds remaining in her account from when it was closed to when it was paid to Miss N.

My final decision

My final decision is that I uphold this complaint in part and Metro Bank PLC are instructed to settle the complaint as described above. For the avoidance of doubt, I do not uphold Miss N's complaint about the closure of the account or the return of funds from her account.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss N to accept or reject my decision before 14 October 2022.

David Perry
Ombudsman