

The complaint

Miss N complains Metro Bank PLC (“Metro”) didn’t reimburse the money she lost when she was the victim of a scam.

What happened

Both parties are aware of the circumstances of the complaint, so I won’t repeat them all here. But briefly, Miss N was the victim of a scam. Miss N’s parents were abroad, and she booked them two tickets for a flight back to the UK as the country they were in was to be placed on the UK’s ‘red list’.

Miss N had been given the details of a travel agency from her uncle. On 4 April 2021, Miss N contacted them via telephone and bought what she thought was two tickets for 6 April 2021. The tickets were business class and the combined cost for both tickets was approximately £1,730. Miss N paid £409.52 via card and paid the remaining amount of £1,321.32 via bank transfer.

Miss N received email confirmation / invoices for the flights. Later on in the evening Miss N went to carry out the check-in on behalf of her parents and found that she couldn’t, and from this it materialised that she had in fact been scammed and there wasn’t any genuine tickets that had been purchased. Miss N tried contacting the travel agency with no success.

Miss N then tried to reach out to Metro that evening but says the lines were closed. So she reported the matter the following morning on 5 April 2021.

Metro logged the details and investigated the matter. It raised a card dispute for the payment Miss N had made via card. This amount was subsequently refunded to Miss N.

With the bank transfer Miss N had made, Metro explained it contacted the beneficiary bank (the bank where the funds were sent to) and it had informed Metro that no funds remained that could be recovered.

Metro is a signatory of the Lending Standards Board Contingent Reimbursement Model CRM Code (the “CRM Code”). The CRM Code requires firms to reimburse customers who have been the victims of APP scams in all but a limited number of circumstances. Metro said one or more of those exceptions applies in this case. It said it gave a scam warning and that Miss N made the payment without a reasonable basis for believing that the business with whom she transacted with was legitimate. Metro considered Miss N didn’t carry out any checks to make sure it was a legitimate seller.

One of our investigators looked into Miss N's complaint and thought it ought to be upheld. The investigator didn't believe Metro had fairly assessed Miss N's claim under the CRM Code. They didn't think that Metro had provided an effective warning prior to Miss N making the payment. And they didn't agree that Metro had been able to establish Miss N made the payment without a reasonable basis for believing the business with whom she transacted with was legitimate.

Metro responded to the Investigator's opinion. On the basis the Investigator had concluded that the warning it provided wasn't as effective or specific as it could have been, Metro felt both parties were therefore liable and considered 50% reimbursement fair. But it maintained its position that Miss N should share some responsibility as she hadn't carried out any checks before making the transfer.

Our Investigator reviewed this and remained of the opinion Miss N should be reimbursed, in full, under the provisions of the CRM Code. They considered it wasn't unreasonable for Miss N to rely on her uncle's recommendation in contacting the travel agent. And even if Miss N had carried out some additional checks online (which they didn't think was merited), there wasn't anything that would have given her reason to think the company wasn't genuine. They also considered Miss N wouldn't have been given any reason to doubt that she wasn't speaking to what she thought was a genuine travel agent. And having carefully considered the price for the tickets they didn't consider it was too good to be true – whereby it should have given Miss N any cause for concern or doubt that things might not be as they seemed. So they considered that no exception to reimbursement applied.

Metro asked for an ombudsman's decision. So, as the matter hasn't been resolved it has been passed 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 am satisfied that:

- Under the terms of the CRM Code, Metro should have refunded the money Miss N lost. I am not persuaded any of the permitted exceptions to reimbursement apply in the circumstances of this case.
- In the circumstances Metro should fairly and reasonably refund the money Miss N lost.
- Metro should also pay interest on the balance not yet refunded at a rate of 8% simple per year. This interest should apply from the date Metro first declined to refund Miss N under the CRM Code, to the date of settlement.

As I've said above, the CRM Code requires payment service providers to reimburse customers who have been the victims of authorised push payment (APP) scams, in all but limited circumstances. If Metro declines to reimburse its customer in full, it is for Metro to establish that its customer failed to meet the requisite level of care under one, or more, of the listed exceptions set out in the CRM Code itself. Those exceptions are:

- where in all the circumstances, 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 that the person or business with whom they transacted with was legitimate; or

- the customer ignored an 'effective warning' by failing to take appropriate steps in response to that warning.

There are further exceptions within the CRM, but none of these are applicable here.

After having carefully considered all of Metro's submissions, I'm satisfied that Metro has not shown that Miss N made the payment without a reasonable basis for believing that the business with whom she transacted with was legitimate or that she ignored an effective scam warning. I will go on to explain why I have reached this finding.

Metro, in response to our investigator's opinion, considered 50% reimbursement was fair – as it considered Miss N made the payment without a reasonable basis for believing that the business with whom she transacted with was legitimate as she hadn't carried out enough checks.

So all that is left for me to consider in this complaint, is whether Miss N had a reasonable basis of belief when making the payment.

Did Miss N have a reasonable basis for belief when making the payment?

Miss N was looking to get her parents flights back to the UK before the country they were staying in was placed on the 'red list'. Miss N was recommended a travel agency from her uncle. I consider this to be perfectly reasonable in the circumstances. It is not uncommon, and many consumers place weight on a recommendation from friends and family. And importantly, I don't think it was unreasonable for her to not have thought much beyond this – such as carrying out any further additional checks. I'm also mindful that even if she had done a simple internet search the travel agency would have been shown.

Miss N used the details she was given and spoke to whom she thought was a travel agent. Miss N booked flights and received the invoices / flight details. Metro argue that the price was too good to be true. I disagree. Miss N, through the card payment and the bank transfer, was paying £1,731.52 for two one-way business class tickets. Our investigator considered the price aspect and carried out some research. Metro was provided with the details and prices of similar tickets the Investigator had found. Having carefully reviewed this, I'm satisfied the price wasn't too good to be true and certainly not to an extent whereby it ought reasonably to have given Miss N a cause for concern.

Overall, I'm satisfied Miss N had a reasonable basis for believing the business with whom she transacted with was legitimate and I'm also satisfied that Metro hasn't established any of the permitted exceptions to reimbursement apply here. It follows that Metro should reimburse Miss N for the losses she suffered.

I appreciate Miss N was frustrated that she tried to contact Metro on three occasions on the evening on 4 April 2022 and says the lines were closed. The number Miss N has told us she called is for Metro's fraud department. And Metro says this operates 24 hours a day, 365 days a year. Metro says it has no record of any contact from Miss N prior to 5 April 2022. I have no reason to doubt either party here. And I'm not sure what happened and why Miss N was unable to get through.

Miss N thinks that had she been able to get through there was a strong possibility that the payment could have been stopped. I can certainly understand Miss N thinking this. However with faster payment bank transfers, they are near enough instant, and fraudsters typically move the funds on straight away before any possible recovery is attempted. So even if Miss N had got through on the evening of 4 April 2022 I'm persuaded that it is more likely than not that it wouldn't have made a difference as the funds were likely to have already been received and moved on by the fraudsters. And in any event, within my findings above I've concluded that Metro should have reimbursed Miss N under the provisions of the CRM Code as no exceptions to reimbursement apply.

My final decision

For the reasons outlined above, I've decided it is fair and reasonable to uphold Miss N's complaint about Metro Bank PLC. I therefore require Metro Bank PLC to pay Miss N:

- The balance of the money lost through this scam, being the sum of £1,321.32; and,
- 8% simple interest per year on that amount calculated from the date Metro Bank PLC originally declined Miss N's claim under the CRM Code until the date of settlement.

I direct Metro Bank PLC to pay compensation, as set out above, within 28 days of receiving notification of Miss N's acceptance of my final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss N to accept or reject my decision before 21 October 2022.

Matthew Horner
Ombudsman