

The complaint

Mr C is unhappy that Metro Bank PLC won't refund the money he lost after he fell victim to a scam.

What happened

The circumstances which led to this complaint are well-known to both parties. So I won't repeat them in detail here. But, in summary, I understand them to be as follows.

In February 2022, Mr C was tricked into making two payments, totalling £1,200, for what he thought was the purchase of some scaffolding tubes, that he'd seen on an online marketplace. But unknown to him at the time he was dealing with fraudsters. The payments he made were as follows;

23 February 2022	£1,000
26 February 2022	£200

Mr C raised the matter with Metro. 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 looked into Mr C's complaint and issued its final response on 15 March 2022, not upholding it. In summary it said it gave a scam warning and Mr C hadn't taken reasonable steps to check if the payment was genuine.

Unhappy with Metro's response, Mr C then brought his complaint to this service. One of our Investigator's looked into things and thought the complaint should be upheld in part. In summary she thought Mr C had a reasonable basis for belief when making the first payment for £1,000, so thought Metro should refund this payment. But she thought at the time Mr C was making the payment for £200, there was enough going on for Mr C to realise the sale may not be legitimate, so she didn't think Metro were liable for refunding this payment to Mr C.

Metro disagreed with our Investigator's view. In summary it maintained that Mr C should have done more to question the seller. As well as this, it said Mr C had selected the incorrect purpose of payment.

As an agreement couldn't be reached, the complaint has 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'm very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

Having considered things carefully, I'm satisfied that, adhering to the CRM Code, Metro should have refunded Mr C the first payment he lost, of £1,000. I'm not persuaded any of the permitted exceptions to reimbursement apply in the circumstances of this payment. I'll explain why.

I've carefully considered all Metro's representations about whether Mr C had a reasonable basis for believing the purchase was genuine. Weighing everything up, I don't think it would have been evident to Mr C that there was a risk with this purchase, I say that because;

- Mr C saw the item he was interested in on a well-known social media platform's marketplace. He engaged with the seller through a number of messages. From reviewing these messages, I don't consider the seller was applying any pressure (which can often be the indicator of a scam), and the seller seemed knowledgeable about the items being sold.
- It doesn't seem to be the case here that the items Mr C was intending to buy, were being offered at a price that Mr C ought to have considered to be too good to be true (which is often, but not always, a hallmark of scams such as this).
- Mr C carried out checks on the company, both online and through Companies House and didn't see anything which concerned him. Which is not surprising given the nature of this scam, which was a fraudster impersonating a genuine company.
- The fraudster was clever in gaining Mr C's trust further by providing a legitimate looking invoice.
- Metro has questioned why Mr C bought the goods from an online marketplace, when he could have purchased them from a well-known builder's merchants. But in the circumstances of this case, I don't consider it follows that because Mr C chose to shop here, which is a legitimate marketplace after all, that this in itself ought to have caused him to question the legitimacy of what he was buying.
- Metro has also argued that Mr C should have questioned why the employee was selling on Facebook. But I don't consider it implausible that an employee would be dealing with the sale of an item, on behalf of a company. So I can understand why Mr C reasonably moved passed this. Especially given he was told the beneficiary was one of the owners of the company.
- Mr C also asked the fraudster if he could send £1 before proceeding with the payment for £1,000, to check the bank details were correct and the payment was going to be received. I think this supports that Mr C was taking steps to protect himself when making the payment.

People don't want or expect to be scammed and I think overall Mr C took reasonable, appropriate and proportionate steps to try and protect himself, when he was making this payment for £1,000. I don't consider he had any reason to think the seller would not keep to their side of that bargain. The fact that the bank can think of additional things Mr C could have done does not mean that he did not do enough. Overall and on balance, I'm not

persuaded that Metro has shown that Mr C lacked a reasonable basis of belief for making the payment for £1,000.

When considering the second payment Mr C made, for £200, I do think, by this point, there was enough going on that Mr C ought reasonably to have questioned what he was being told. Mr C has said that when the delivery hadn't materialised as expected, he had called the fraudster and told them he was going to come and find them, along with the police. But then, having hung up the phone, he called the fraudster back, and he's said the fraudster then told him if he paid £300 he would arrange for the delivery.

Mr C has said he questioned this, as the delivery was meant to have been included in the initial price, so he told the fraudster he couldn't pay this. But when the fraudster asked Mr C how much he could pay, he agreed to send another £200.

I'm mindful Mr C has said that he had separate arrangements in place for a lorry to leave for his homeland, that was dependant on the delivery of goods he was expecting from the fraudster. So I can understand why he was keen to get things sorted out. But by now there had been issues with Mr C not receiving the goods as expected and, at this point he was at the address where he expected the scaffolding to be, but it wasn't there. I'm persuaded that there were warning signs by now that things may not have been as they seemed.

Having considered the circumstances of the second payment, for £200, I can't fairly say Mr C has proceeded to make the payment with a reasonable basis for believing this payment was legitimate. I'm persuaded this was sufficient reason for Metro to fairly decline to reimburse Mr C, with the payment he made for £200, under the CRM Code.

For completeness, I also don't think the warnings Metro presented Mr C with would be considered as 'effective' under the CRM Code. While the warnings, in part, intend to warn customers about potential scams they may be at risk of. The warnings don't bring to life what the type of scam Mr C was falling victim to looked like or highlight the common features of these types of scam. They also don't make it clear that any money sent as a result of a scam would be lost and likely irrecoverable. However having said that, considering the relatively low value of the payments Mr C was making (and therefore a lesser indication that Mr C may be a risk of fraud), I don't consider there was a requirement on Metro's part for an effective warning to be provided.

Finally, I've thought about what Metro did when Mr C reported the scam. I can see it contacted the receiving bank, but unfortunately no funds remained to be recovered. I don't think Metro has missed an opportunity to recover the money Mr C has lost.

Putting things right

For the reasons outlined above, Metro Bank PLC, should now;

- Refund Mr C the £1,000 payment, he lost as a result of this scam.
- Pay 8% simple interest per year on that amount calculated from the date Metro Bank PLC originally declined Mr C's claim until the date of settlement.

My final decision

My final decision is that I uphold this complaint against Metro Bank PLC in part.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 22 December 2022.

Stephen Wise
Ombudsman