

The complaint

Mr D is unhappy that Metro Bank PLC (“Metro”) won’t refund money he lost to a scam.

What happened

Mr D invested just over £32,000 in a company I’ll refer to as G. Unfortunately, G went into liquidation. Mr D made a claim through the Financial Services Compensation Scheme (FSCS) and in March 2021 received a full refund of the investment funds he’d lost.

While Mr D was waiting to receive his refund cheque from the FSCS, he received a letter from a separate company who I’ll refer to as A. A told Mr D that by paying certain fees and costs, they could recover the funds he’d lost from his investment with G.

Between March 2021 and June 2021, Mr D made over 30 payments to accounts held in multiple different names totalling over £48,000 - as requested by A. When Mr D didn’t get his refund from A as expected, Mr D realised he’d fallen victim to a scam and reported it to Metro.

Metro considered Mr D’s fraud claim but declined to refund him, saying he didn’t have a valid scam claim. And, while they tried to recover the money from the beneficiary banks, they were only able to recover £37 – which was credited to Mr D’s account.

Mr D wasn’t happy with Metro’s response and brought a complaint to our service.

An investigator looked into Mr D’s complaint and partially upheld it. They explained that Mr D wasn’t entitled to a refund for the payments he made under the CRM Code as he didn’t make the payments for a genuine service or legitimate payment purpose. But, the investigator found that Metro could’ve recovered an additional £2,000 from one of the beneficiary banks and recommended they refund this to Mr D.

Mr D didn’t agree with the investigator’s recommendation, saying Metro took too long to report the scam to the beneficiary banks and could’ve done more to recover his money. As the case couldn’t be resolved informally, it was passed to me to review.

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 answer as the investigator for the following reasons:

- I’m not satisfied that Mr D’s claim is covered by the CRM Code as I don’t believe he made the payments for a legitimate or genuine purpose. Mr D had already made a claim for his loss through the FSCS and been advised that he would be getting a full refund before he made any payments as part of this scam. Therefore, Mr D was attempting to double recover these funds despite knowing he wasn’t entitled to that additional money. This means the payments aren’t within the scope of the CRM

Code.

- I'm satisfied that Metro could've recovered an additional £2,000 from one of the beneficiary banks and should refund Mr D those funds. The beneficiary bank requires an indemnity from Metro to release the funds and it appears that Metro has some process issues around providing it. However, Metro is required to provide the refund to Mr D as the funds are available and being held by the beneficiary bank. It's for Metro to liaise with the beneficiary bank in order to release the funds.
- The investigator contacted all of the beneficiary banks and received confirmation that by the time Mr D reported the scam to Metro, the funds had been removed from the beneficiary accounts and only £37 could be recovered – which has been paid to him. Most of the funds were removed from the beneficiary's accounts the same day as they were received which was well before Mr D reported the scam.
- Metro has taken the appropriate action and steps to try and recover Mr D's funds. I appreciate that Mr D believes the beneficiary banks should've done more, however I can only consider Metro's actions in this case and not those of the beneficiary banks.

I realise that Mr D is going to be very disappointed as he's lost over £48,000. But I've carefully considered whether, despite the payments not being covered by the CRM Code, I can or should fairly hold Metro liable for Mr D's loss. And, based on the circumstances of this case, I'm not satisfied that I can fairly ask Metro to refund Mr D, as he was trying to double recover funds that he had already obtained through the FSCS.

Putting things right

To put things right Metro Bank PLC should refund Mr D the £2,000 they could've recovered from one of the beneficiary banks.

My final decision

My final decision is that I uphold this complaint and require Metro Bank PLC to compensate Mr D as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 27 April 2023.

Lisa Lowe
Ombudsman