

The complaint

Ms M complains that Metro Bank PLC (“Metro”) won’t refund the money she lost after she fell victim to an ‘authorised push payment’ (“APP”) scam.

What happened

The background to this complaint is well-known to both parties, so I won’t repeat it all here. But briefly, and based on the submissions of both parties, I understand it to be as follows.

In May 2022, Ms M received messages through an instant messaging service from someone claiming to be her son. But unknown to her at the time the messages were actually coming from a fraudster.

Unfortunately, the chain of messages with the fraudster is no longer available, as it was lost when Ms M blocked the fraudsters number. But Ms M has told us the messages said her son had broken his phone and provided her with his new number. The messages went on to say that, because of the phone breaking, Ms M’s son was unable to access his online banking, and he asked if she could make an urgent payment for him, providing Ms M with the payment details.

Ms M said she was aware her son uses his phone for banking payments, so it made sense that if his phone was broken, he wouldn’t be able to make the payments. Ms M added that the messages were in the same tone and style that her son usually uses and that she is in contact with her son, through messages, on a daily basis. Ms M says she tried to call the new number, but there was no answer. She told us that she also tried to call her son’s old number, but again received no answer.

Ms M has said because she didn’t recognise the name of the payee, on the payment details she was given, she searched it online and saw a result that related to a medical profession. Seeing this, Ms M said she became really worried, as she concluded that her son may be unwell and that the payments were for medical bills. Believing she was speaking to her son, Ms M went ahead and made the following payments;

23 May 2022	£1,336.00
23 May 2022	£2,735.00
23 May 2022	£3,500.00

After making the payments, still worried that her son may be unwell, Ms M thought to contact her son’s girlfriend. It was then that the scam came to light and Ms M realised she’d sent money to accounts that were controlled by the fraudsters.

Ms M contacted Metro to ask it to stop the payments. Metro’s fraud detection systems had already flagged the second and third payments, so they were able to prevent these payments from being sent, so Ms M hadn’t lost the money from the last two payments. But she had lost the first payment for £1,336.

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 Ms M’s complaint and issued its final response on 7 June 2022, not upholding it. In summary, it said it gave a scam warning and that Ms M didn’t have a reasonable basis for believing she was speaking to her son.

Unhappy with Metro’s response, Ms M brought her complaint to this service. One of our Investigator’s looked into things and thought the complaint should be upheld. In summary she didn’t think Metro had been able to establish that Ms M didn’t have a reasonable basis for believing that the messages she received were from her son. It was our Investigator’s view that Metro should refund Ms M the money she lost, along with interest.

Metro disagreed with our Investigator’s view. In summary, it said Ms M appears to have taken at face value that her son was having problems with his phone and that Ms M had drawn her own conclusions that the payments were for medical bills, and that this wasn’t something that was stated by the fraudster.

As an agreement couldn’t be reached, the complaint has now been passed to me for a final 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.

Having considered things carefully, I’m satisfied that, adhering to the CRM Code, Metro should have refunded Ms M the £1,336 she lost. I’m not persuaded any of the permitted exceptions to reimbursement apply in the circumstances of this payment.

I’ve carefully considered all Metro’s representations about whether Ms M had a reasonable basis for believing she was genuinely speaking to her son. Having done so, I’m not persuaded that Metro has been able to establish that Ms M didn’t have a reasonable basis for belief when she made the payment. I’ll explain why;

- These types of scams are particularly cruel and play on the trust and emotive nature of the relationship between a parent and their child. Ms M has said she believed the messages were coming from her son and that she was concerned he was in trouble and needed her help. Ms M has explained that the tone, language and use of emoji’s in the messages were consistent with messages her son usually sent. So I can understand how the familiarity, in the style of the messages, reasonably led her to believe they were coming from her son.
- Ms M has said the messages said that her son couldn’t get his online banking set up on his new phone until a day or so later. I think this is a plausible explanation for why her son wouldn’t have been able to make the payment himself and why he needed Ms M’s help. I say that especially as Ms M has said she was aware that her son does do his banking through his phone. Alongside this, Ms M has said the messages also promised that Ms M’s son would pay her back when his access to online banking was restored, which I think will have been reassuring to her.
- I’m also mindful that Ms M has said she’d given money to her son before. So I’m persuaded it wasn’t so uncommon for Ms M’s son to ask her for help, that it ought to have caused her any course for concern when he reached out to her.

- I've thought carefully about Metro's comments that Ms M reached her own conclusions about the payments being for medical bills, after checking the payee. With the benefit of hindsight and the removal of the pressured environment, it's easier to identify elements where Ms M may have thought and acted differently. But the convincing nature of these scams can often have a negative effect on a person's thought process. Especially in the absence of a warning around how these scams typically feel and play out. In the individual circumstances of this case, because of the situation and in the moment, it is understandable why Ms M was worried about her son and came to conclusions that she may not ordinarily have done in the cold light of day.
- From what I've seen, I don't think Ms M has proceeded here with a disregard for risk. She has taken time to check the payee and also made attempts to contact her son, before making the payments. In doing so, Ms M has demonstrated that she has taken some steps to protect herself from possible risk. And I don't consider that by not receiving an answer to her calls, it would automatically follow that she didn't have a reasonable basis for belief.
- People don't want or expect to be scammed. There may have been some things about the situation which could have caused Ms M some concerns or that she could have done differently. But because we can think of additional things Ms M could have done (such as calling her sons girlfriend sooner) that does not mean that she did not do enough, or that she didn't have a reasonable basis for believing she was genuinely speaking to her son.

Overall and on balance, I'm not persuaded that Metro has shown that Ms M lacked a reasonable basis of belief when she made the payment for £1,336.

For completeness, Metro has shared a number of warnings with us, but not specified which warning would have been presented to Ms M. But having looked through all of the warnings it has submitted, I don't think the warning Metro would have presented to Ms M 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 Ms M was falling victim to looked like or highlight the common features of these type of scams (such as being contacted on a messaging app by a family member, being told that their phone is broken and that an urgent payment is required). 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 I don't think the payment for £1,336, would have appeared unusual or suspicious to Metro, in comparison to how she typically ran her account (and therefore a lesser indication that Ms M 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 for the payment of £1,336.

Putting things right

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

- Refund Ms M the £1,336 she 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 Ms M's claim until the date of settlement.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 23 March 2023.

Stephen Wise
Ombudsman