

The complaint

Miss P complains that Metro Bank PLC ('Metro') won't refund money she lost after falling victim to a scam.

What happened

In 2017, Miss P fell victim to a romance scam and as a result made two payments from her Metro account – both were made on 14 August 2017 and were international payments for £10,000 each. When she tried to make the third payment on 17 August 2017, the scam was uncovered by Metro, and no further payments were made.

Miss P raised a fraud claim with Metro, but they declined to refund her. They told Miss P that they'd contacted the beneficiary banks, but no funds had been recovered.

Miss P wasn't happy with their response, so she brought a complaint to our service.

An investigator looked into Miss P's complaint and upheld it, recommending that Metro fully refund Miss P and pay simple interest at 8% per year on that refund.

Metro disagreed with the investigator's recommendation, for the following reasons:

- For the first two payments, Miss P told them she was paying solicitors fees for a friend. Metro considered this to be a genuine payment purpose and aren't convinced further questioning was required.
- They asked further questions when Miss P made the third payment, because a pattern had formed. But don't believe they should've been concerned when she made the first two payments.
- Romance scams were less prevalent in 2017.

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.

I haven't considered Metro's obligations for reimbursement under the Lending Standards Board's Contingent Reimbursement Model Code (the CRM Code) because the payments were made prior to the introduction of the CRM Code in 2019, and we can't apply the CRM Code retrospectively. Also, the CRM Code doesn't apply to international payments.

In broad terms, the starting position in law is that Metro are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account. And it's not disputed that Miss P made and authorised these payments, although I accept that she did so, as the result of a scam.

However, taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Metro should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

Having reviewed Miss P's previous account use, I'm satisfied that both of these payments were unusual and out of character, and that Metro should've been concerned and identified a potential scam risk. I say this because Miss P's account was rarely used for payments over £1,500. The only other large payment she had made was a £20,000 transfer between her accounts, which occurred three months prior to the scam payments. Also, Miss P didn't regularly make international payments, and both of these payments were made on the same day, to two different payees, and meant Miss P was sending a total of £20,000.

As I think Metro should've been concerned that Miss P might be the victim of a scam, I would've expected them to ask appropriate questions in relation to the payments. I don't agree with Metro's position that they should've accepted the payment purpose she gave without further questioning.

When Miss P made the third payment, Metro asked additional questions, despite her giving the same payment reason as for the first two payments. As a result, Metro uncovered the scam. Based on this, I think it's more likely than not, that had Metro asked similar questions for the first two payments, they would've uncovered the scam and prevented Miss P's loss.

Metro say romance scams were less prevalent in 2017, and that Miss P didn't tell them she had met the friend through a dating website. However, Metro are the professionals in this situation and where a scam risk is identified or should've been identified, the onus is on them to ask appropriate questions to satisfy themselves with regards to the reason for the payment and whether the customer may be the victim of a scam.

For these reasons, I'm satisfied that Metro should refund Miss P for both payments she made as a result of the scam.

I have considered whether Miss P should share responsibility of her loss with Metro. However, I'm not satisfied that I can fairly make a deduction in this case. Miss P has told us that she hadn't used a dating website before and based on the information she was given by the fraudster, I don't think it was unreasonable for her to believe that the person she was dealing with was genuine. She was provided with numerous photos which appeared to support his place of employment, his travel overseas, that he had a son, and that he was staying in hotels while abroad. Also, they had talked on the phone extensively and everything the fraudster told her was backed up with what appeared to be reliable evidence. In these circumstances, I'm not satisfied that there were obvious red flags that Miss P should reasonably have identified or steps she should've taken to mitigate her losses.

On that basis, Metro should refund 100% of the payments Miss P made and pay interest on that refund at 8% simple interest per year, calculated from the date she made the payments until the date of settlement.

Putting things right

To put things right Metro Bank PLC should refund Miss P in full for both payments she made (totalling £20,000) and pay interest on that refund at 8% simple interest per year, calculated from the date she made the payments until the date of settlement.

**If Metro considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss P how much it's taken off. It should also give Miss P a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.*

My final decision

My final decision is that I uphold this complaint and require Metro Bank PLC to reimburse Miss P as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 12 October 2023.

Lisa Lowe
Ombudsman