

## **The complaint**

Ms K complains Metro Bank PLC won't refund the money she lost when she was the victim of a scam.

## **What happened**

In early 2023, Ms K received an update from an investment company she'd invested with several years earlier. The update said they'd been able to recover the money she'd invested with them previously and that, once she made a necessary security deposit, she'd be able to withdraw her money again. Ms K then made a payment of £9,200 from her Metro bank account to buy cryptocurrency, which she then sent to the investment company as it requested.

Unfortunately, it now appears the recovery attempts were a scam. Ms K realised she'd been the victim of a scam after she was only sent a much smaller amount back than she was promised after paying the security deposit. She then reported the payment she'd made to Metro and asked it to refund the money she had lost.

Metro investigated but said it had stopped the payment and spoken to Ms K before allowing it to go through. Based on what she had said, it felt it had acted reasonably in then allowing the payment to be made. So it didn't agree to refund the money she had lost. Ms K wasn't satisfied with Metro's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think Metro had done enough in the call with Ms K and that, if it had done what we'd expect, the scam would have been uncovered and she wouldn't have lost the money. But they also felt Ms K should bear some responsibility for the loss, as she should have been concerned about what she'd been told. So they recommended Metro bank refund 50% of the money Ms K had lost. Ms K accepted this, but Metro disagreed so the complaint has been passed to me.

## **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.

Banks are expected to make payments in line with their customers' instructions. And Ms K accepts she made the payment here. So while I recognise she didn't intend for the money to ultimately go to scammers, she did authorise the payment. And so the starting position in law is that Metro was obliged to follow her instructions and make the payment. So Ms K isn't automatically entitled to a refund.

However, the regulatory landscape, along with good industry practice, sets out requirements for banks to protect their customers from fraud and financial harm. So, in line with this, I think 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 made 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.

*Did Metro do enough to protect Ms K?*

Metro stopped the payment when Ms K first tried to make it, and spoke to her about it before allowing it to go through. And I've listened to a recording of this call and considered whether Metro did enough in it to protect Ms K.

In the call, Metro asks what the payment is for, and Ms K says it is for online trading. Metro asks if Ms K has her own cryptocurrency wallet and set it up herself, which she says she did. And Metro then asks how she got into trading, and Ms K says a friend of hers she has known for a number of years has been helping her. So I appreciate that Metro did ask some questions about the payment and about the cryptocurrency trading Ms K thought she was doing.

But I don't think the answers and explanations Ms K gave were particularly clear and I think some of the things she said in the call should have caused Metro significant concern. Ms K doesn't seem to be able to give a particularly clear explanation of how the trading she is doing works and seems uncertain with the process of moving her money to the trading platform. She says she is taking her friend's advice on research and trading. And she says she needs to make a deposit and then she will be able to withdraw more afterwards, which is a common feature of investment scams. So I think these things should have caused Metro significant concern and led to it asking further questions, rather than just allowing the payment to go through.

And at the time the payment was being made in early 2023, I think banks should have been aware that cryptocurrency related transactions carried an elevated risk of the likelihood of the transaction being related to a fraud or scam. There had been widespread coverage in the media about the increase in losses to cryptocurrency scams at this point, and many firms had placed blocks or restrictions on cryptocurrency related transactions as a result. So I don't think the questions Metro asked went far enough address to address this risk.

Given the amount of the payment Ms K was trying to make, I think it would have been reasonable to expect Metro to ask more probing questions about how Ms K had found out about the trading, whether she was using an investment company to manage or monitor her trading, and what returns she had been making. I also think it would have been reasonable to expect Metro to provide a warning to her about relevant cryptocurrency scams.

I've not seen anything to suggest Ms K would have lied or tried to mislead Metro if she was asked about the payment. So I think it's likely that, if asked, she would have told it she had been using an investment company to manage her trading and had been told she had made significant profits. I also think it's likely more probing questions would have uncovered that Ms K had invested several years earlier and now been told she needed to pay more to

withdraw her money. And as these are all features of common cryptocurrency scams, I think Metro should then have had significant concerns and warned Ms K that she was likely the victim of a scam.

Metro did warn Ms K that there were a high number of cryptocurrency scams where people would pose as friends and help them with their investments. But I don't think this warning was detailed enough about what this kind of scam could look or feel like or was clear enough about the risks of sending money to a scammer in this way. So I don't think this warning meant Metro did enough to warn Ms K.

And as Metro is the expert in financial matters in this situation, I think a clearer warning about its concerns would have carried significant weight with Ms K. I think if Metro had explained that her circumstances matched common investment scams and given her some steps she could take to check whether it was legitimate, the scam would have been uncovered and Ms K wouldn't have made the payment.

So if Metro had done more to protect Ms K, as I think it should have, I don't think Ms K would have lost the money from this payment. And so I think it would be reasonable for Metro to bear some responsibility for the loss Ms K suffered.

*Should Ms K bear some responsibility for her loss?*

I've also thought about whether it would be fair for Ms K to bear some responsibility for her loss. And while I appreciate that this was a sophisticated scam where it appeared a company she'd been dealing with previously got back in touch with her, I do think there were a number of things about what was happening that should have caused her significant concern.

Ms K had invested with the company she received the update from several years earlier. But she hadn't been able to withdraw her money during that time, so I think it should have been suspicious to her that she hadn't been able to withdraw it previously but would now be able to withdraw it after such a long time. She was also told she needed to pay a significant amount as a security reposit before she could withdraw her money. But I wouldn't expect a legitimate company to require a client to pay such a significant amount of money in before being able to withdraw their own money. So I think being asked to do this should also have caused Ms K significant concern.

Given the amount of money she appears to have invested previously, and the amount she was now being asked to pay, I think it would be reasonable to expect Ms K to have carried out some research into the investment company. But she doesn't appear to have carried out significant research into the company, either before investing initially or before sending this later security deposit. The FCA had issued a warning that the investment company was acting without authorisation, and I think this warning would have appeared in any online search about the company. So I think if Ms K had done the research I would expect, she would have uncovered significant concerns about the investment company.

Ms K also appears to have been told she had made significant returns on her initial investment with the company, which I think should have caused her significant concern that what she was being told was too good to be true. And she doesn't appear to have been told exactly how much of her money she would be able to withdraw after paying the security deposit. And I think being asked to make such a significant payment but not told how much you could be able to withdraw afterwards should also have caused her significant concern.

I sympathise with the position Ms K has found herself in. But I think there were a number of things here which should have caused her significant concern. And I don't think she did

enough, or that the seemingly genuine information she received from the company should have been enough, to overcome those concerns. So I think it would be fair for her to also bear some responsibility for the loss she suffered.

As I think both Ms K and Metro should bear some responsibility for the loss she suffered, I think it would be fair for Metro to refund 50% of the money Ms K lost.

Ms K has said she received some cryptocurrency back from the investment company after she paid the security deposit, but a much smaller amount than she was expecting. And from what she's sent us, it appears the amount she received back was worth £415 at the time. So I think it would be fair to deduct this amount from the money she lost as a result of the scam.

### **My final decision**

I uphold this complaint and require Metro Bank PLC to:

- Refund Ms K 50% of the money she lost – for a total of £4,392.50
- Pay Ms K 8% simple interest on this refund, from the date of the payment until the date of settlement

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 16 February 2024.

Alan Millward  
**Ombudsman**