

The complaint

Mr H complains that The Co-operative Bank Plc (“Co-op”) have declined to reimburse him after he lost £7,495.25 to an authorised push payment (APP) scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat everything in detail again here. Instead, I will provide a brief summary and focus on giving the reasons for my decision.

Mr H fell victim to an APP scam in October 2022. He was cold-called by someone who purported to work for a lottery company based in America – who we now know were operating a scam.

Mr H was told he was due £200,000 from a pool made up of uncollected lottery winnings. However, in order to be able to access these funds, Mr H was told he would need to contact a London based solicitors' firm who would facilitate the transfer of the funds for him. For the purposes of this decision, I will refer to this firm as “LA”.

Mr H checked that LA were registered on Companies House and then he contacted them via the telephone number provided to him. LA told Mr H that there were two available avenues for him to collect the money that was due to him – he could collect the money in person from New York or have a cheque sent to him. Mr H chose the latter.

Between October 2022 and January 2023 Mr H made the following payments in order to facilitate the sending of his cheque:

Date	To	Amount	Reason
19/10/2022	Payee 1	£1,000	Tax fee
26/10/2022	Payee 1	£2,970	Unclear
24/11/2022	Payee 2	£1,000	Delivery fee
13/12/2022	Payee 2	£5.25	Further taxes
13/12/2022	Payee 2	£520	Further taxes
27/01/2023	Payee 2	£2,000	Delivery fee

Mr H was given various reasons as to why payments were needed upfront, but ultimately no cheque was delivered. So, when he happened to be visiting London, Mr H decided to pay a visit to LA's offices where he spoke to a receptionist. At this point, Mr H was told LA was not a solicitor's firm and it did not provide the type of services Mr H had been led to believe. Mr H realised he had been the victim of a scam.

Mr H then instructed professional representatives who contacted Co-op on his behalf in April 2023 to ask for a refund of the amount he had lost. Co-op said it would not look to refund Mr H's money. However, it did make contact with the bank that received Mr H's funds and

fortunately it was able to recover £3,470 and return it to him. Co-op also offered Mr H £50 in compensation for taking too long to investigate his complaint.

Unhappy with Co-op's response, Mr H brought his complaint to this service and one of our Investigators looked into things.

Our investigator didn't uphold the complaint. He considered whether Co-op ought to have refunded the money Mr H lost under the Contingent Reimbursement Model (CRM) Code, which Co-op is signed up to, but he didn't think it should have as he didn't think Mr H had a reasonable basis for believing the transactions he was making were for a legitimate purpose. The investigator also didn't think the bank needed to provide an effective scam warning to Mr H at the time the payments were made.

Mr H disagreed, so the matter has been escalated to me to determine.

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 agree with the conclusions reached by the Investigator, and I have decided not to uphold this complaint. I'll explain why in more detail below:

There is no dispute that Mr H has been the victim of a scam. He was tricked into making the payments thinking that he had to do so to receive a substantial windfall. But this isn't enough in and of itself for Mr H to receive a refund of the money he lost now.

The CRM code

Co-op has agreed to adhere to the provisions of the Lending Standards Board Contingent Reimbursement Model (the CRM code) which requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams like this, in all but a limited number of circumstances.

A customer who has fallen victim to a scam should, under the CRM Code, be refunded in full in most circumstances. But the Code does set out exceptions to reimbursement which a business can choose to rely on, if it can evidence that they apply.

In this particular case, Co-op has said that Mr H lacked a reasonable basis for believing he was dealing with legitimate people for legitimate purposes. So, it is now for me to decide whether Co-op has acted fairly and reasonably.

Having carefully considered the circumstances of this case, I'm not persuaded Mr H did have a reasonable basis for believing the person/people he was paying were legitimate. I say this because:

- Mr H was contacted out of the blue by a company saying a lottery payment of £200,000 was due to him from America. Mr H's representatives have said this didn't seem odd to Mr H at the time because he had previously been involved with international lotteries and had gone through a similar process before. However, Mr H has told us he hadn't had any involvement with these lotteries for at least 7 years and even then, he had not won enough to have ever gone through the process of

obtaining his winnings. So, overall, I'm satisfied that what Mr H was told should have struck him as odd - he was being told he was due a substantial sum from a lottery which, at the very least, he'd had no connection with for at least 7 years, if at all. Mr H has not provided any evidence to show he had any connection to an American lottery. So, overall, I'm not persuaded that the story that the scammers had presented to Mr H was plausible. And so, it's unclear what led Mr H to think what he was being told was genuine.

- Mr H received no documentation or paperwork to support what the scammers were telling him. He was sent no documentation to suggest the company he was supposedly dealing with or the proposed pay-out was legitimate. And I'm satisfied that this should have struck Mr H as suspicious.
- Information was readily available online that showed the telephone numbers given to Mr H by the scammers were being used as part of a lottery themed scam. I have taken on board what Mr H's representatives have said about Mr H not being particularly computer literate, but I also have to bear in mind that Mr H did go online and research the solicitor's firm he was supposedly dealing with and so I am satisfied that Mr H was in a position to carry out at least some basic research on the companies he was dealing with.
- Mr H says he searched online to ensure the solicitors he was dealing with were registered with Companies House and felt reassured when he found that they were. However, I have looked at LA's registration on Companies House and the registration makes it clear that LA is not a solicitor's firm.
- Given what I've said above, it appears that Mr H has taken at face value what he was being told over the telephone by the scammers and hasn't sought to independently verify what he was being told.
- Throughout the scam, Mr H was making payments to two private individuals not to a business account as one would expect when dealing with a legitimate solicitor's firm.
- It isn't plausible that Mr H would need to make numerous high value payments before a cheque could be sent to him in the post and this should have led to Mr H questioning what he was being told before proceeding to make the payments now in question here.

Overall, I think there was enough going on here to have raised significant concerns about what Mr H was being told from the start, and I think further steps could and should have been taken in order for Mr H to have a reasonable basis for believing everything was legitimate. I'm therefore satisfied that Mr H didn't meet the required level of care under the CRM Code.

In terms of whether Co-op met its own standards, the CRM Code says that the bank are required to provide an effective scam warning where an APP scam risk is identified. Co-op has said it didn't provide Mr H with any scam warnings at the time the payments were made as it didn't think any of them were suspicious or unusual when compared with Mr H's previous account history.

In this instance, the faster payments Mr H made were for relatively low amounts (£525 - £2,970) and I agree that there wasn't anything particularly suspicious about them at the time. I appreciate that the second payment of £2,970 was higher than Mr H's usual transactions but by this point, this payment was being made to an existing payee and the payment itself was still relatively modest. So, I'm not persuaded that it would have appeared particularly suspicious to Co-op at the time either. And Co-op wouldn't have been required to deliver an effective warning unless other risk factors were present, which I don't think they were here. So, I'm not persuaded Co-op has failed to meet the standards required under the CRM Code.

I've also considered whether Co-op did enough to try and recover Mr H's money after the scam had been reported. Mr H didn't report the fraud directly to Co-op, and instead raised a complaint with his professional representative. However, I can see that Co-op attempted to recover the funds after it was made aware of the scam by reaching out to the beneficiary bank(s) where, fortunately, £3,470 remained. This amount has now been returned to Mr H. And so, I'm satisfied that Co-op has done all that it could when made aware of the scam.

I appreciate my decision will likely come as a disappointment to Mr H. But I'm not persuaded he met his requisite level of care in line with the CRM Code, and I'm not persuaded Co-op has failed to meet its own standards. So, I don't think Co-op has acted unreasonably by not offering a refund in these circumstances and I won't be asking it to do anything further now.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 18 March 2024.

Emly Hanley Hayes
Ombudsman