

## **The complaint**

Mr R has complained Metro Bank PLC won't refund him for transactions he didn't authorise.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

On 11 May 2023, Mr R received a text asking him to confirm a £20 card payment to a payee I'll refer to as "C". He called who he thought was Metro Bank to tell it he didn't make the payment and was seemingly transferred to the fraud team who advised it would add 'level 3 security' to his phone.

When Mr R checked his account to ensure the payment didn't go through, he noticed four transactions had been debited from his account totalling £20,001. He contacted Metro Bank to dispute the payments but it refused to issue a refund. It said the payments were authorised through a One Time Passcode ("OTP") which had been sent to Mr R's registered phone number. It said that whoever made the transactions set up the payees through his online banking facility and would have needed access to his registered phone number.

It explained that as Mr R had said he hadn't made any of the payments it couldn't investigate the claim as an APP scam. And the Contingent Reimbursement Model ("CRM") code wouldn't apply for the same reason. It also said it wasn't obliged to refund the money under its terms and conditions and the applicable regulations because the evidence suggested he had authorised the payments.

Mr R wasn't satisfied and so he complained to this service with the assistance of a representative. He said Metro Bank had refused to return money that was stolen from his account and it should refund the payments under the CRM code. He said Metro Bank had refused to cooperate or acknowledge the crime despite having been contacted by the Police and that he wanted compensation for his loss and unnecessary stress. He explained he'd had to borrow money and was unable to pay rent and university fees.

Mr R's representative suggested the account might have been compromised and stated that the payments should've been verified before they were processed. He explained that on 11 May 2023, Mr R received messages which Metro Bank confirmed it didn't send. He confirmed Mr R hadn't shared his passwords and login details with anyone, and was in possession of his phone, which is password protected.

The representative also said Metro Bank took seven weeks to respond to Mr R's complaint and that he wanted compensation and a full refund of the disputed payments.

## **My provisional findings**

I explained the CRM code requires firms to reimburse customers who have been the victims of Authorised Push Payment ('APP') scams, in all but a limited number of circumstances.

Metro Bank has said the CRM code didn't apply in this case because Mr R didn't accept that he'd made the payments, and I was satisfied that's fair.

Metro Bank is expected to process payments and withdrawals that a customer authorises it to make and under the PSRs a payment service provider generally must provide a refund if it hasn't been authorised. Authorisation has two limbs – authentication and consent. So, Metro Bank need to show the transaction was authenticated as well as showing Mr R consented to it.

Authentication can be shown by the correct details and credentials being used to log into online banking and make the payments. Metro Bank had explained there was a new payee added which would require someone to log into Mr R's account using his security credentials. It also said the payments were authenticated through an OTP which was sent to Mr R's registered phone number and that whoever made the transactions set up the payees through his online banking facility – so I was satisfied the transfers were authenticated.

Turning to the issue of consent, Mr R had said from the outset that he didn't make or consent to the transactions. When he reported the disputed payments to Metro Bank, he explained to the call handler that he'd received a text message purporting to be from Metro Bank asking him to confirm a £20 card payment. He said he was told the account would be placed under 'level 3 security' but that Metro Bank subsequently told him there was no record of this call and Metro Bank didn't use level 3 security.

Mr R hadn't said that he gave anyone an OTP but, based on his account of the events leading up to his discovery of the disputed transactions, I thought it was more likely than not that he was the victim of what we'd call an 'unauthorised scam', whereby he was tricked into sharing details which enabled scammers to make payments out of his account without his knowledge or consent. This is something that Metro Bank acknowledged was a possibility when he first reported the disputed payments to it and given how the call about the £20 payment appeared and happened, I could see why Mr R trusted the caller was from Metro Bank. This was a sophisticated scam, and I could understand how Mr R was tricked into believing he was speaking to someone from Metro Bank, so I didn't think he was grossly negligent.

So, while the payments were authenticated, I didn't accept they were consented to, therefore they were unauthorised. The starting point under the PSRs is that Metro Bank is liable for unauthorised payments, so I was minded to tell it to put things right by refunding Mr R's losses from these unauthorised transactions alongside 8% simple interest per year to compensate M for the time it's been out of pocket.

### *Compensation*

I didn't think there were any failings in the way Metro Bank investigated the claim and the subsequent complaint, so I couldn't fairly ask it to pay Mr R any compensation.

### *Recovery*

Metro Bank didn't produce any evidence relating to an attempt to recover the funds.

### **Developments**

Neither party has submitted any further comments or evidence for me to consider.

## **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.

Because neither party has submitted anything further for me to consider, the findings in my final decision will be the same as the findings in my provisional decision.

## **My final decision**

My final decision is that Metro Bank PLC should:

- Refund the four transactions.
- pay 8% simple interest\*, per year, from the respective dates of the transactions to the date of settlement.

\*If Metro Bank PLC deducts tax in relation to the interest element of this award it should provide Mr R with the appropriate tax deduction certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 26 March 2024.

Carolyn Bonnell  
**Ombudsman**