

## **The complaint**

Miss J via a representative complains that Metro Bank PLC (“Metro”) won’t refund the money she lost when she was the victim of what she feels was a scam.

## **What happened**

Around April 2020, Miss J says she was introduced to a scammer that I will call B by a friend. Miss J says that she was persuaded to invest in crypto coins.

Miss J then made a number of payments over the next year or so, to various crypto exchanges and a well known investment platform.

Miss J says she attempted to make withdrawals from her investment but was unable to do so. Some years later she says she realised that she had been scammed and she raised a complaint with Metro.

Metro didn’t agree to refund the payments Miss J had made, so Miss J referred a complaint to our service.

One of our investigators looked at the complaint. They didn’t think there was enough evidence that a scam had taken place. So they didn’t think Metro should have to refund the payments. Miss J disagreed with our investigator, 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.

Having done so, I don’t think it would be fair to require Metro to refund the payments Miss J made here. I’ll explain why below.

Banks are expected to make payments in line with their customers’ instructions. And Miss J accepts she made the payments here. So while I recognise she now feels she has been scammed by the man she was sending the money to, she did authorise the payments. And so the starting position in law is that Metro was obliged to follow her instructions and make the payments. So Miss J isn’t automatically entitled to a refund.

There are certain activities banks are expected to carry out to try to protect their customers from falling victim to scams, and certain protections in place for customers who do fall victim to scams. But, before looking at whether Metro has done what we’d expect it to do or whether these protections apply, I must first be satisfied that Miss J has been the victim of a scam.

The relevant test for whether someone has been the victim of a scam comes from the FCA handbook. This defines a scam as where a customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person. Or where the customer transferred funds to another person for what they believed were legitimate purposes but were in fact fraudulent.

So in order to determine whether Metro should refund the payments Miss J made, I first need to consider whether she has been the victim of a scam.

I appreciate that Miss J first started making the payments she is now disputing, a number of years ago and that people won't always keep records of payments they made. But Miss J hasn't been able to provide any documentary evidence showing the purpose of any of the payments she is disputing.

And without clear evidence of what it was agreed the payments were for, it's not possible to safely say what Miss J's intended purpose for the payments was or that she was deceived about that purpose.

I am also mindful that the only chats that Miss J has provided between her and the scammer were from a year after the payments that Miss J says were part of the scam were made. Also, the chats don't seem to actually mention a scam and seem to refer to the purchase of a crypto coin that does actually exist.

I should also add that some of the payments made were to a legitimate investment company which does not offer crypto investments and the payments seem to be returned a year later, which is not indicative of someone who is being scammed.

Additionally, Miss J has not provided any evidence to demonstrate that the funds sent to the crypto exchanges were forwarded on to someone else.

So I don't think that Miss J has demonstrated that the payments that she says were part of the scam were actually part of a scam or that she has actually been scammed.

So, based on the evidence I have, I don't think I can safely say that Miss J was deceived about the purpose of the payments or that the circumstances here meet the definition of a scam from the FCA handbook.

And so I don't think the protections in place for victims of scams apply here, or that it would be fair to require Metro to refund the payments Miss J has disputed. But, as I explained above, before looking at whether Metro has treated her fairly, I must first be satisfied she has been the victim of a scam. And as I don't think the evidence we have supports this here, I don't think her circumstances mean Metro should be expected to refund her.

I sympathise with the position Miss J has found herself in, if it is the case that she lost a significant amount of money. But I can only look at Metro's responsibilities here and, for the reasons I've explained above, I don't think it would be fair to require Metro to refund the payments Miss J made.

### **My final decision**

For the reasons set out above, I don't uphold this complain.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 21 November 2024.

Charlie Newton  
**Ombudsman**