

The complaint

Mr W brings a complaint on behalf of a limited company – which I'll refer to as L – for which he is the sole director.

He complains that Metro Bank PLC didn't do enough to protect L when it made payments towards what it now believes was a scam. And he further complains that Metro hasn't reimbursed L since the scam was reported.

L is represented in this complaint but, for the sake of clarity, I'll refer to Mr W and L throughout.

What happened

Mr W has explained he was approached by someone with an investment opportunity. L had previous business dealings with this person.

The opportunity was to work with another company – I'll call it Company F – based in Spain. L would send money to Company F, and it would then obtain Standby Letters of Credit through its banking connections. Funds would then be managed by Company F, with them being *'managed and invested for the purposes of their parties and projects'*. The expected returns were 25% on the sum invested.

Mr W, one of L's former directors (still a director at the time), and another party met with the director of Company F and discussed the opportunity. Mr W has said they decided to proceed with the investment because:

- He researched Company F and found it to be a genuine and legitimate business with an online presence;
- He was encouraged by the face-to-face meeting with the director of Company F, finding him to be genuine in intent and purpose;
- A copy of the director's passport was taken (and has been provided to this service);
- Convincing contracts were provided and entered into by all parties (including the other director of L and third person already mentioned);
- They visited a branch of Company F's bank and met with the bank manager to ensure everything was in order.

Once all agreements were signed, and satisfied all was genuine, L sent £92,395.82 to the account of Company F by way of international transfer. This was the initial payment due, as set out in the contracts.

On 5 August 2019 L sent the balance at Company F's instruction. L was directed to send the money to a different account, held with what was described as a Swiss trust firm. L went ahead and sent a payment of £212,947.50.

Although Mr W stayed in contact with Company F for some time, he found promises weren't being delivered on. No returns or profits were paid, and no money was returned. After a *'couple of years of empty promises'* Mr W came to the belief it had been a scam.

Mr W complained to Metro on L's behalf in January 2024, requesting reimbursement. The complaint said Metro ought to have considered the payments as carrying a scam risk, given

the value and fact they were international, and to have questioned L about their purpose. As it didn't, Mr W believes Metro ought to reimburse the loss.

Metro responded to say it didn't believe it had done anything wrong. It had some questions about the parties involved and checks carried out and sought some clarity there. But it ultimately said it didn't believe the transactions stood out as unusual given L's previous account activity, which included large payments and money being sent overseas.

It went on to say that it considered the returns too good to be true, and that this ought to have stood out to L at the time.

Metro says it contacted the banks the money was sent to, to see if any money could be recovered. The recipient bank for payment one said no funds remained in the account. While the other recipient bank said the matter ought to be taken up with the account holder.

Mr W then referred L's complaint to this service, and it was considered by one of our investigators. She didn't think the complaint should be upheld setting out three key findings:

- The payments weren't dissimilar to L's normal account activity, so there was no need for Metro to intervene or ask questions about them;
- Even if it had, she wasn't persuaded the scam would have been revealed. She noted the points Mr W had described around his due diligence and what made everything so convincing. With those factors explained to Metro, she didn't think it would have been concerned about a scam;
- Metro had done what it could to recover the money by contacting the receiving banks.

Mr W didn't feel L had been given a fair outcome and so asked that an ombudsman review the complaint. He said that had Metro *'provided a warning that the funds could, realistically, be at risk he would have taken these concerns seriously. Any preconceived beliefs on the legitimacy of the investment would not necessarily have produced the forgone conclusion that he would have proceeded.'*

The case has now been passed to me for a final decision.

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 don't underestimate the impact these events have had on L, or on Mr W. It's clear the losses here are very significant. But having considered everything, I'm reaching the same outcome as our investigator and for broadly the same reasons. I'll explain further.

The starting point at law is that a customer – here L – is responsible for any authorised payments made from its account. This is set out in the Payment Service Regulations (2017) and confirmed in the account terms and conditions. It remains true even where payments may have been made as a result of a scam.

The Payment Service Regulations also set out a firm's obligation to process authorised payment instructions quickly, and with minimal friction. That said, there are time when a firm ought to step in to question an apparently legitimate payment instruction. Firms should be on the lookout for signs of fraud and the risks of scams. That includes monitoring accounts for suspicious and unusual transactions.

Should a firm fail to take action in the face of such risks, it might be fair and reasonable for it to bear responsibility for losses suffered as a result of its inaction. It's then for me to decide if Metro *did* fail to take action at the time the payments were being made and, if it did, whether such a failure can be said to have led to L's loss.

Some payments might also benefit from the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. The Code is in place to see scam victims reimbursed in most instances. But it doesn't apply to the payment made by L.

The first payment was made before the introduction of the Code. The Code isn't retrospective and so can't be applied to the payment.

Both payments were international. But the Code only applies to payment to a UK account. And so it's the case that neither payment is covered.

Has L been the victim of a scam?

Whilst this point hasn't been contested by Metro, I do note there is little evidence that's been presented to show a scam has taken place here. I completely accept L has lost money. But it's not entirely clear that has come about as a result of a scam, as opposed to a failed business relationship with Company F.

There are certainly features that point to Company F being legitimate, including: it's long-standing existence and Mr W being able to find records to support that; the professional nature of the agreements entered into; the fact Mr W was able to meet with Company F's bank manager.

If I were to find this wasn't a scam, then there would be no reason for Metro to reimburse L. I have, however, continued to consider the complaint on the assumption a scam has taken place. And that's because the outcome overall will not change either way, in that I wouldn't be directing Metro to reimburse L in any case.

Should Metro have recognised a scam risk, considering the payments that were being made?

I do think there is an argument to say Metro ought to have stepped in for both payments here. In saying as much I have considered the historical transactions for L. And it's true there are payments of a similar value to the first payment. I also accept there was a history of international payments and that L's account was used, with a large volume of funds moving through.

But payment one was such a significant amount of money, and being sent internationally, that Metro ought to have considered there was some risk. I don't think it needed to go further than to deliver a general written warning, but that ought to have happened.

For the second payment, Metro ought to have initiated a human intervention. That might have been a phone call or requiring agents of L to attend branch to discuss the payment. The sum being sent was very significant. There might even have been a few similar value payments within a twelve-month period, but not enough to say it was entirely regular account activity. And given the sum was so high and, again, going internationally, it carried a high degree of risk which ought to have been addressed.

However, I'm not persuaded intervention from the bank would have prevented the loss here. I'll address the human intervention in my findings here, as it would be the much more significant of any action on Metro's part.

Had Metro spoken to Mr W – or another agent of L – about the payment it would have been to identify its purpose. I've no doubt Mr W would have accurately explained exactly what L was engaging in, and it would have been clear an investment opportunity was being entered into.

It then follows that Metro would have asked questions about the investment, including how L had come upon it and what due diligence had been carried out. It's in the answering of those questions that I'm persuaded Metro would have been satisfied there wasn't a scam risk.

Key facts such as L being introduced by a known party with previous business dealings would be viewed as a positive. As would the depth and quality of the agreements entered

into. That Mr W had met the recipient of funds face-to-face and even met their bank manager would have given further cause for Metro's concerns to be abated. I don't believe it would have been apparent to Metro that L might be falling victim to a scam, and that would have been fair and reasonable in the circumstances. It might then not have gone on to give a warning at all, and that would have been fair and reasonable.

I'm also conscious that Mr W wasn't acting alone on behalf of L here. There was another director at the time who was also aware of all the details. And, it appears, he was an experienced investment professional. There was then a third person on the contract whom we know little about, but appears to have been involved in all discussions.

If Metro had gone on to give a warning, it would have been to outline some of the key characteristics of an investment scam. But the majority of those characteristics weren't present here, for the same reasons I've already explained in the above paragraph.

Mr W and the other signatories to the agreement were understandably convinced all was legitimate. It seems a lot was done to ensure all was above board. And so I'm not persuaded they would have been discouraged from their intended course of action.

Attempts to recover the funds

Metro has said it attempted to recover the money by contacting the recipient banks, but to no effect. Unfortunately, it tends to be very difficult to recover funds sent internationally and there is often little cooperation from the recipient firms.

Here, one did confirm there was no money left in the account. That isn't surprising given the money had been sent a few years before Metro was notified of the scam. It seems more likely than not the money was also removed from the other beneficiary account too. But even if it wasn't, there was nothing more Metro could do to try and recover it.

Conclusions

I'm sorry to disappoint Mr W as the director of L. But I can't say Metro ought to be responsible for L's losses here. I'm not persuaded an intervention from the bank would have altered the ultimate outcome and the funds would still have been sent and lost.

My final decision

I don't uphold this complaint against Metro Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask L to accept or reject my decision before 20 June 2025.

Ben Murray
Ombudsman