

The complaint

Mr D complains that The Co-operative Bank Plc (“Co-op”) won’t refund him all the money he lost as the result of a scam.

What happened

The details of this complaint are well known to both parties, so I won’t go into too much detail here. However, in summary, Mr D was the victim of a scam.

He received a call from someone who said they were calling from his bank, Co-op, but who we now know to be a fraudster.

The fraudster called Mr D from a withheld number and told him a £250 transaction had been attempted from his account. The fraudster told Mr D that they were worried his account had been compromised and would call him back in around 10 minutes. Mr D logged into his online banking but couldn’t see the transaction the fraudster had referred to.

The fraudster then called back around 10 minutes later and told Mr D that his account had been compromised and he would need to move his funds to a new safe account that had been set up for him. During the call, Mr D authorised three transactions but only the first transaction amounting to £3,000 was successful, Co-op’s fraud prevention systems prevented the rest.

Mr D said that at various points during the call, he felt uncomfortable and requested to call the bank from the number on the back of his debit card so he could verify what he was being told. But ultimately the fraudsters were able to persuade him that this wasn’t warranted, and he needed to act quickly to protect the money in his account.

When the fraudsters asked Mr D to start moving money out of his savings accounts, he refused. When the call ended, Mr D realised he’d been scammed and he contacted Co-op to tell it what had happened and to request his money back.

Co-op looked into Mr D’s complaint and acknowledged that he had been the victim of a scam but it declined to offer him a full refund. It said Mr D had ignored scam warnings that would have been displayed on his screen during the payment process. It also didn’t think Mr D had taken enough steps to check who he was paying and the reason for the payments before he allowed the payments to leave his account. Regardless, it agreed to refund Mr D 50% of his overall loss - £1,500.

Unhappy with Co-op’s response, Mr D brought his complaint to this service and one of our investigators looked into things. She agreed with Co-op that Mr D had proceeded to make the payments without a reasonable basis for believing that he was speaking with his bank. Because of this, she felt the offer of a 50% refund from Co-op was fair.

Mr D disagreed with our investigator's opinion and as an informal agreement could not be reached, 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'm aware that I've summarised this complaint and the responses briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here – which is to determine whether Co-op should've provided Mr D with a full refund after he reported being the victim of a scam. It is not my role to comment on the bank's fraud protection mechanisms more generally.

Furthermore, if there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as an alternative to the courts.

Having carefully considered the complaint, I've reached the same outcome to the one reached by our investigator and I won't be asking Co-op to take any further action. I'll explain why in more detail below.

In broad terms, the starting position is that a payment service provider (in this case, Co-op) is expected to process payments that its customer authorises, in accordance with the Payment Services Regulations (PSRs), and the customer's account terms and conditions. But where a customer made a payment(s) as a result of the actions of a fraudster, it may sometimes be fair and reasonable for a payment service provider to reimburse its customer, even though the payment(s) were authorised. I understand that Mr D has made reference to provisions in the PSRs that relate to unauthorised transactions. As the transaction in question here was authorised by Mr D, those particular provisions aren't relevant.

The CRM Code

Under the Lending Standards Board's Contingent Reimbursement Model (the CRM Code), which Co-op is a signatory of, it should reimburse customers who are victims of authorised push payment scams, except in limited circumstances.

In considering this case, I have taken account of whether Co-op ought to have reimbursed Mr D in full under the provisions of the CRM code, and whether it ought to have done more to protect Mr D from potential financial harm from fraud. I've also considered the actions of Mr D.

As I've said above, The Code requires payment service providers to reimburse customers who have been the victims of authorised push payment (APP) scams, in all but limited circumstances. If Co-op declines to reimburse its customer in full, it is for Co-op to establish that one or more the listed exceptions set out in The Code itself apply. Those exceptions are:

- The customer ignored an effective warning in relation to the payment being made.
- The customer made the payment without a reasonable basis for believing that:
 - the payee was the person the customer was expecting to pay;

- the payment was for genuine goods or services; and/or
- the person or business with whom they transacted was legitimate

There are further exceptions within the CRM Code, but none of these are applicable here.

Did Mr D have a reasonable basis for belief?

Under the CRM code, Co-op can choose not to reimburse Mr D in full if it doesn't believe he had a reasonable basis for believing that the business he was paying was legitimate. It isn't enough for Mr D to have believed that he was paying a legitimate business, he had to have a *reasonable basis* for that belief.

I have carefully considered Co-op's representations that Mr D did not have a reasonable basis for believing he was making a payment to his bank or that he was making payments from his account to a new safe account. And I agree. In reaching this conclusion, I've had regard to the scene that was set by the fraudsters and the impact I believe this reasonably had on Mr D when acting 'in the moment'. I'll explain why:

- Mr D appears to have believed what he was being told by the fraudsters without trying to independently verify the information they were giving him. He was called from a withheld number which didn't have any apparent connection to his bank.
- Mr D was told that a £250 transaction had been attempted on his account but when he logged onto his online banking, he couldn't see the transaction. So, he couldn't verify what the fraudsters had told him.
- Mr D said he was uncomfortable throughout the call and more than once requested to verify the information he was being told by calling the number on the back of his debit card. I'm satisfied that this demonstrates that Mr D did have concerns about what he was being told at the time, but proceeded to authorise the transactions from his account regardless.
- It's unclear why Co-op would need Mr D to send money to a new safe account in order to protect his account. If Co-op were concerned about Mr D's account, the account could have been restricted. And so, I'm satisfied that what the fraudster told Mr D should've struck him as unusual.

Overall, and based on the evidence I've seen, I'm satisfied Mr D accepted what the fraudsters told him at face value without completing any independent verification checks of his own. Given the particular circumstances of this case, I'm not satisfied this was reasonable and I think he should've taken steps to check who he was speaking with before agreeing to make payments out of his account.

Did Mr D ignore an effective warning?

Co-op said that Mr D ignored an 'effective warning' that was presented to him on screen during the payment process. However, Co-op hasn't provided any further detail so it hasn't been possible for me to assess whether this warning could be considered "effective" or not. Regardless, I don't think this makes a difference in this particular case as Co-op has already offered to return to Mr D 50% of his overall loss. And this is the amount I would've recommended had I been satisfied that an effective scam warning was required and not provided. And so, I don't need to consider this aspect of the complaint further now.

Could Co-op have done anything else to prevent the scam?

I also don't think Co-op ought to have done more than it ultimately did to try and protect Mr D from financial harm from fraud. This payment was of a relatively low value and there wasn't anything inherently suspicious about it at the time that would've warranted further intervention from Co-op. I'm pleased to say Co-op did identify and block the next two payments and ultimately prevented Mr D's further loss.

I've seen evidence which satisfies me that only 93p of Mr D's funds remained in the beneficiary account for recovery by the time he reported the scam to Co-op. However, the receiving bank told Co-op that no funds remained. I don't think it was unreasonable for Co-op to have relied on this information and I understand Mr D has been told to contact the receiving bank if he requires a refund of these funds now.

Finally, I want to say how sorry I am to hear about what happened to Mr D. I've a significant amount of sympathy for the circumstances he has found himself in. I know he has lost this money to a cruel and callous scam and I understand why he feels strongly that Co-op should offer him a full refund now. But ultimately, I don't think Co-op has acted unreasonably in not upholding his complaint in full and so I won't be asking it to do anything further.

My final decision

My final decision is that I do not uphold this complaint about The Co-Operative Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 27 January 2025.

Emly Hanley Hayes
Ombudsman