

## **The complaint**

Mr N complains that Metro Bank PLC ('Metro') won't reimburse the funds he lost when he says he fell victim to a scam.

## **What happened**

Mr N says that between August 2019 and March 2020 he made four payments adding up to £13,311.28 to a company I'll refer to as 'A' in my decision. A was a peer-to-peer lending platform which Mr N says assured him his money would be used for one to five year secured loans. Mr N says he was told that in the event of the default of any of the loans, the secured assets would be sold, and he would be reimbursed. This didn't happen and Mr N says that A is widely known to be a scam.

Mr N says that A began a voluntary wind-down in June 2022 and stopped taking on new business. Despite this, social media posts show directors of A living an extravagant lifestyle. He also says that the director of A who enticed him to invest was a close friend of at least one borrower who hasn't returned his money.

Through a professional representative Mr N asked Metro to reimburse his loss. Metro said Mr N's funds went to a legitimate peer-to-peer lending platform that subsequently entered administration, so it wasn't liable for Mr N's loss.

Mr N was unhappy with Metro's response and brought a complaint to this service. He said Metro didn't do enough to protect him when he made payments to A and should reimburse his full loss plus interest and compensation of £1,000.

The investigator who considered Mr N's complaint didn't recommend that it be upheld. She said there was insufficient evidence to conclude that A didn't intend to provide the agreed investment. This meant that she couldn't ask Metro to consider Mr N's complaint under the Contingent Reimbursement Model Code ('CRM Code').

Mr N didn't agree with the investigator's findings and asked for a final decision, so his complaint has been passed to me. I have considered everything Mr N said and summarised what I think are his main points below.

- A was a Ponzi scheme set up to enrich directors. Its operations became unsustainable, leading to its administration.
- Administrators say A's unethical actions and severe financial mismanagement have resulted in significant losses for investors.
- The company misrepresented its stability and the security of the investment.
- A director of A raised funds for a friend and fellow shareholder, but he was not told of this.
- The platform failed to assess the viability of some loans resulting in defaults that affected investors. This was compounded by poor risk management.

## **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.

In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – in other words on what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. But there are circumstances when it might be fair and reasonable for a firm to reimburse a customer even when they have authorised a payment.

Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an authorised push payment (APP) scam, except in limited circumstances. But the CRM Code only applies if the definition of APP scam, as set out in it, is met.

I have considered whether Mr N's claim falls within the scope of the CRM Code, which defines an APP scam as:

*...a transfer of funds executed across Faster Payments...where:*

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.*

It is for Mr N to demonstrate that he is the victim of an APP scam.

To decide whether Mr N is the victim of an APP scam as defined in the CRM Code I have considered:

- The purpose of the payments and whether Mr N thought this purpose was legitimate.
- The purpose the recipient (A) had in mind at the time of the payments, and whether this broadly aligned with what Mr N understood to have been the purpose of the payments.
- Whether there was a significant difference in these purposes, and if so, whether it could be said this was as a result of dishonest deception.

Mr N thought he was investing on a peer-to-peer platform. I haven't seen anything to suggest that he didn't consider this to be a legitimate purpose.

I've gone on to consider the purpose A (or its directors) had in mind at the time Mr N made his payments.

A was a legitimate company that was authorised by the Financial Conduct Authority ('FCA'). The FCA has published a notice to say that joint administrators have been appointed but has made no mention of fraudulent activity.

I've not seen anything from the administrators of A to suggest the company was operating a scam. Instead, evidence suggests A ran into financial difficulty. I also haven't been provided with evidence following an investigation by any other external organisation which concludes that A intended to use Mr N's funds for a different purpose.

Mr N has referred to poor business and financial management, but these factors don't go far enough to bring his claim within the scope of the CRM Code. Whilst A may have, for example, misrepresented certain information, there is currently no evidence to say this was

done with the intention of scamming investors. A lot of adverse inferences have been drawn here.

Having carefully considered all the evidence provided to me, I'm not persuaded there is sufficient evidence to conclude that the purpose A had in mind when it took payments from Mr N was different to his. So, I consider Metro acted fairly in not considering Mr N's complaint under the CRM Code.

If material new evidence comes to light at a later date Mr N can ask Metro to reconsider his fraud claim.

Mr N has asked that Metro pay him £1,000 compensation but hasn't highlighted any service failings. I can see that when Mr N's representative first submitted a complaint to Metro authority to act for Mr N wasn't included so the complaint had to be re-submitted. The form of authority then provided is dated 7 March 2024, and Metro gave Mr N an answer on 3 April. I don't consider Metro acted unreasonably here.

I'm really sorry to disappoint Mr N, but I'm not satisfied that I can fairly ask Metro to refund him based on the evidence that is currently available.

### **My final decision**

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 6 May 2025.

Jay Hadfield  
**Ombudsman**