

The complaint

E, a Small Self-Administered Scheme (SSAS), complains that Metro Bank Plc have unreasonably declined to refund them funds they lost to a scam.

What happened

For this complaint E has appointed professional representatives. But for ease of reading in this decision I shall only refer to E.

In 2021 the trustees of E were persuaded to invest in a scheme I shall refer to as D. This collected funds for property development. As part of this investment E transferred £149,700 from an account they held with Metro to their solicitor, H, by authorised push payment (APP). The funds were then passed on to D.

The trustees of E later came to believe that D was not a legitimate investment, and instead being run as a Ponzi scheme. D was dissolved in 2024, and E lost the funds they had invested.

The trustees of E complained to Metro Bank in June 2024, arguing that D had been a scam all along. They asked for reimbursement under the Lending Standard Board's Contingent Reimbursement Model Code (CRM Code).

Metro declined to refund, saying that their customer was the administrator of the SSAS, rather than the trustees. They also said that as the payment had gone to H, rather than D, it would not be a valid APP scam claim.

Dissatisfied with this the trustees of E referred the complaint to our service, with the consent of the administrators of the scheme. They said the issue was of a clear scam and shouldn't be treated as a civil dispute. One of our investigators looked into what happened, but she didn't think the complaint should succeed. She felt that as E had first transferred the funds to H, it wouldn't meet the definition of an APP scam in the CRM Code. She didn't see that the code obliged Metro to refund E. She also didn't think the payment to H was so significantly out of character for the account that Metro should have intervened to prevent it.

This wasn't accepted by E. As no agreement could be reached the complaint was passed to me to decide. After review I reached the same overall conclusion to the investigator, but my reasoning was slightly different. I issued my provisional decision that said:

Firstly, I'm satisfied that this is a complaint our service can consider. I understand Metro considers the administrators of the SSAS to be their customer, rather than the trustees. I'm satisfied that we have received permission to consider this complaint from both the trustees and administrators of E, so I don't see any issue in us considering the merits of the complaint.

There doesn't appear to be any dispute that the payment from E's account with Metro was authorised and processed in line with the account mandate. So, in line with the relevant

regulations there's no obligation on Metro to refund them if the payment later turns out to be fraudulent.

Is E covered by the CRM Code?

The CRM Code, of which Metro are a signatory, says that banks should generally refund losses to APP fraud. But the code doesn't cover all losses to fraud – it only applies to specific customers and payments.

The initial submissions from E were around whether D were running a scam – although this doesn't seem to be reason Metro declined to refund E. I think there is enough information to show that D were not running a legitimate investment, and that E have lost out because of this. But this isn't the key factor in determining my outcome here.

There is a question of whether a SSAS, such as E, meets the definition of "micro-enterprise" in the CRM code. But I don't intend to answer that questions here, as more broadly I'm not persuaded that the payments from E's account to H are within the scope of the CRM code.

Section DS2(1) of the CRM code says:

This Code applies to Customers undertaking Payment Journeys as defined in DS1(2)(k):

- (a) between GBP-denominated UK-domiciled accounts, by any channel of push payment available to the Customer, such as in branch, on the phone, or online.
- (b) to the point of the first reception of funds in an account held by a receiving Firm (the first generation account). Firms whose accounts are utilised in the onward transmission of APP scam funds are out of scope.

A Payment Journey is defined as

The process of bringing about an authorised payment, as defined in DS1(2)(a), including initiation of a payment order, adding a new, or amending an existing payee, all acts taken by the Customer to authorise execution of the payment, ending with the initial reception of the transaction funds in a payee account.

Here I'm persuaded that the funds were still in the control of E at the point they arrived with the intermediary – H. There was already an established relationship between E and H, and I can see that E had transferred funds to H previously. I'm satisfied that H would have acted on behalf of E, rather than D. The funds were still in E's control. But this is the point that the Payment Journey ends under the CRM code.

On that basis it's not unreasonable that Metro declined to refund E under the code.

Could Metro have done more to prevent the transaction?

I've also considered what's fair and reasonable here. Metro, like all regulated financial businesses in the UK, have obligations to monitor accounts and payments for signs of financial harm – such as fraud or money laundering. If a transaction looks particularly out of character for the account, or presents a significant risk of financial harm, then I may expect the bank to intervene. This may involve presenting relevant warnings, or in some cases contacting the payer to discuss it further. The hope is that any fraud or scam would be uncovered.

But I don't see that in this case Metro ought reasonably to have intervened. As it was set up to service the SSAS the nature of the account means that it would be expected to make large payments. And from the account history I can see payments of higher value had been sent to H previously. So, I don't see that there would have been any particular concern about this payment, or that Metro missed a valuable opportunity to prevent E falling victim to the scam.

Conclusions

I appreciate this will come as a disappointment to the trustees of E, as I'm aware they've lost a considerable sum of money to this scheme. But for the reasons given above I don't see that there is any responsibility on Metro to refund them for their losses. As such, I'm not persuaded the bank need to do anything further.

Neither party had anything further to add to the provisional decision before the deadline.

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 the absence of any new information or points to consider from either party I remain satisfied with the conclusions reached in the provisional decision.

Given that E transferred the funds from Metro to an account controlled by H, I see that it is out of scope for the CRM code. So, I don't see that there is an obligation on them to refund the losses. And having considered the account history, and purpose of payment, it wouldn't be reasonable to say that Metro should have declined the payment request without further intervention.

I am sympathetic to the trustees of E, but I don't see that Metro can reasonably be held responsible for their losses. As such I don't see that they need to do anything further.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask E to accept or reject my decision before 22 May 2025.

Thom Bennett
Ombudsman