

The complaint

P, a limited company, complains that Metro Bank PLC ('Metro Bank') has not refunded the money it lost through what it now believes was a scam. P is represented by Q, which brings the complaint on P's behalf.

What happened

The facts of what happened are known to both parties so I will provide a summary. Mr S, director of P, was seeking to wind up P in 2021. He engaged with an insolvency practitioner firm (which I will call 'F1') to assist him with a Members Voluntary Liquidation of P. It was agreed that a professionally regulated individual (who I will call 'AD') would act as the insolvency practitioner for P. AD was the director of F1 and was also the director of another other relevant entity (which I will name 'F2').

P made two initial payments to F1 in the course of the liquidation process which aren't in dispute.

On 21 July 2021, P was asked by a staff member of F1 to send a further two payments of £2,500 and £6,100 to an escrow account for tax purposes in connection with the liquidation. P was directed to make the payments to F2 on the understanding that the money would then be returned and distributed to shareholders.

Since then, F1 and F2 entered administration and the money was not returned. The Insolvency Service later reported that in 2020, AD was reprimanded by one of the regulatory bodies. At that time, in September 2020, AD had been placed under a licence restriction which prohibited him from taking on any new insolvency appointments. The Insolvency Service reports "It is understood that [AD] has absconded having misappropriated nearly £4 million in estate funds."

A new insolvency practitioner was appointed by the court and it complained on P's behalf to Metro Bank that P had been the victim of an authorised push payment scam and should be refunded under the Lending Standards Boards' Contingent Reimbursement Model Code ('CRM Code'). The case was looked at by an Investigator. Metro Bank had argued that it hadn't done anything wrong by processing the payments in dispute because it wasn't aware that the company was undergoing liquidation. Nonetheless, the Investigator still concluded that the £2,500 and £6,100 payments were made as part of a scam and should be refunded under the CRM Code.

Metro Bank did not accept her view as it disagreed that what happened was a scam and asked 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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant law and regulations; regulators' rules, guidance and standards;

codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

Metro Bank is a signatory to the CRM Code which in many circumstances can provide reimbursement to the victims of APP scams. But there are scenarios which are specifically not covered by the CRM Code, for example where payments are deemed to be "private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."

Metro Bank said what happened isn't a scam, so I will consider if it is fair and reasonable for it to decline reimbursement on this basis.

Is what happened a scam or a civil dispute?

For the purposes of this complaint, the CRM Code defines an APP scam as one where a customer has "transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent."

So in order to find that these payments are covered by the CRM Code, I have to be persuaded that, on balance:

- the purpose for which P made the payments was different from the purpose for which AD procured them; and
- that difference arose because of dishonesty or deception on the part of AD or those acting on his behalf.

The purpose of the £2,500 and £6,100 payments by P seems to be that the funds would be held in a designated client account whilst the liquidation process was carried out and then they would be paid back to Mr S.

This didn't happen as F1 failed and AD absconded without the liquidation process being concluded, so I don't think that the purposes of the payments align. So I have gone on to consider whether that difference arose because of dishonesty or deception on the part of AD or those acting on his behalf.

While I accept it is possible that F1 and F2 may have once traded legitimately, I don't think this is the case at the point of P's payments. The relevant facts as I see it are as follows:

- AD had been prohibited from carrying out any new work as an insolvency practitioner. According to information on the Insolvency Service website, the date of that prohibition was 3 September 2020. While AD appealed, his appeal was rejected on 24 February 2021.
- P entered into agreements with AD to act as its liquidator in June 2021. These documents are signed by AD.
- So it can be concluded that the prohibition had been made prior to Mr S engaging AD's services. Yet in the written documentation given to Mr S, AD states that he is qualified to act as an IP and will act in P's liquidation.

- It seems unlikely that AD was unaware he was prohibited from acting as an IP. I find he most likely knew he was not able to act in the liquidation of P.
- P's funds were transferred to F2, on the premise that these would be held as client funds while the liquidation process was conducted by AD.
- Companies House shows that F2 was under the control of AD through a family trust in his name. The recipient bank says that F2's bank account was set up and controlled by AD.
- In sending funds to F2's account, the money was being moved to an account and a company controlled by AD.
- AD is understood to have absconded with a significant sum of client funds, prior to carrying out the liquidation of P.
- P's money would have most likely formed part of those funds given the liquidator can find no trace of the bulk of AD's money now.

Having considered the available evidence, and applying a balance of probabilities, I believe it is more likely than not that this was dishonest deception intended to result in P's funds being misappropriated by the person principally in control of F1 and F2, AD. That dishonest deception was about the purpose for which P's payment was procured. In particular, I am not persuaded that AD (acting through F1 and F2, which he controlled) intended to carry out the liquidation of P when he took the instruction. He could never have done that. Nor could F1 (or F2) ever have done that with AD as the insolvency practitioner. I find AD knew he could not do so. He was the controlling mind behind F1 and F2. That leads me to believe the underlying purpose behind this transaction was never to return the money as P had been led to believe – rather, it was fraudulent. The evidence convinces me that the intent of AD (and hence of the companies he controlled) was that he would obtain significant sums from companies such as P, which he would later misappropriate.

The initial smaller payments made to F1 seem to me most likely intended to give the process the veneer of authenticity or legitimacy. But I think the intention was to secure the larger third payment and then for those funds to be misappropriated by AD.

And so I am satisfied that the £2,500 and £6,100 payments made by P met the CRM Code's definition of an APP Scam, not a private civil dispute. It follows that the relevant payments are payments covered by the provisions of the CRM Code.

Should P be reimbursed under the CRM Code?

I have gone on to consider whether, had Metro Bank assessed P's claim against the CRM Code as I find it should, the bank would have been liable under the CRM Code's provisions to reimburse P.

There are provisions within the CRM Code which permit a firm not to reimburse (or not to fully reimburse) a customer for APP Scam payments where the firm is able to establish that certain exceptions can be applied. I have considered whether any of those exceptions can correctly be applied to P's £2,500 and £6,100 payments under the provisions of the CRM Code.

Having reviewed the circumstances here, and considered the requirements of those exceptions, I am not satisfied that Metro Bank has demonstrated that any should apply - it's clear that Mr S thought he was dealing with a legitimate firm and I can't see that he would have had any grounds to suspect that he wasn't dealing with a legitimate business. This means that Metro Bank ought to have reimbursed P under the CRM Code for the £2,500 and £6,100 payments.

Metro Bank has pointed out that it had no awareness that P was being liquidated and so, when asked to process these payments, it didn't do anything wrong in carrying out that instruction. However, the CRM Code doesn't require Metro Bank to have been at fault for it to be required to reimburse P.

Putting things right

If P accepts, Metro Bank PLC should:

- Refund the net loss of £8,600 (the £2,500 payment and £6,100 payment)
- Add interest to this figure at a rate of 8% simple per year from the date Metro Bank PLC first declined to consider P's claim under the CRM Code.

My final decision

For the reasons I've set out above, I uphold P's complaint about Metro Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask P to accept or reject my decision before 15 January 2026.

Paula Lipkowska
Ombudsman