

## **complaint**

Mr L feels that Metro Bank Plc ("Metro") has treated him unfairly in relation to an £800 payment he made on his credit card to a binary options company.

## **background**

Mr L accepts he made a payment of £800 on his credit card to a binary options company in order to trade with that company on the markets it supposedly provides access to. He made this payment on the 20<sup>th</sup> August. A few hours later Mr L became concerned he'd been scammed into making the transaction so he contacted Metro to stop the transaction.

He was told as the payment was pending he couldn't log his concerns and he should wait seven days. Once the payment cleared Metro told him that it couldn't refund the £800. Metro accepts it should have told him it could log his concerns when he first raised them. So it offered him £50.

Mr L complained here. The investigator thought £100 better reflected what happened but also felt that Metro didn't have to refund the £800. Mr L doesn't agree. So this complaint comes to me to make a final decision.

## **my findings**

I have considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr L and Metro do not agree as to what has happened in this complaint. As a consequence I have to consider all the evidence available and make a decision based on the balance of probabilities. In other words what I think is more likely to be the case.

There are two possible avenues for this complaint to follow, namely a section 75 complaint under the relevant legislation or via the credit card chargeback process which is under the chargeback scheme rules administered by the credit card providers.

Section 75 essentially allows the consumer, Mr L in this case, to pursue either the supplier or the creditor (Metro) equally for goods or services provided by the supplier (in this case the binary options company) after making a transaction –in this case with his credit card. However what happened here doesn't constitute a transaction under this legislation. This is because Mr L was depositing money into an account to then trade with. It wasn't actually to pay for the account or a service –this money was to be traded with. So unfortunately I don't consider this transaction to be a 'transaction' under section 75 and as such I'm not persuaded Metro has done anything wrong in not refunding the money under this legislation.

The chargeback process is administered by the credit card providers and provides a process for banks to recover funds for its account holders in certain situations. The appropriate scheme rules here state that there are no charge back rights in relation to the use of any value purchased for gambling investment or similar purposes.

So considering these rules I'm not persuaded Metro has done anything wrong or that Mr L has lost out because Metro didn't raise a chargeback for Mr L. I say this because the rules make specifically clear that a transaction such as this by Mr L doesn't benefit from

chargeback rights-and as such any chargeback attempt by Metro would have likely to have been unsuccessful.

And considering the matter in the round it is clear that Metro can only be held accountable for things it has done wrong. The binary options company is an unregulated enterprise and as such is outside the scope of this service or indeed the regulator in this jurisdiction. And it is clear that the nub of this complaint is about how the binary options company has treated Mr L. So did Metro do anything wrong in its dealing with Mr L that needs to be put right?

Metro accepts it misinformed Mr L on 20<sup>th</sup> August but points out that he did log the complaint properly on the 23<sup>rd</sup> August. In essence it believes that the wrong information didn't lead to any detriment to Mr L so it doesn't see why it should pay more than the £50 already on the table.

The investigator thought £100 was more appropriate. This was because of loss of expectation given the incorrect advice he was given as well as the unnecessary delay for processing this dispute. Although not necessarily persuaded by the investigators position having considered the matter in the round I do think £100 is fair and reasonable in the circumstances.

Mr L says that numerous employees "*were of the opinion that I would certainly have my money returned to me through the agency of Metro*". There is no real-time recording of these conversations. Metro doesn't accept Mr L's position on this matter. Without an actual recording of the exact wording used it's hard to be definite on what was said. On balance I'm not persuaded by what Mr L says on this because it would seem unlikely to me that such staff would say such things with 'certainty' when at that stage no investigation had been completed. And of course such conversations were some time ago.

Mr L says Metro should sort out his dispute with the binary options company. However there is no persuasive reason for it to do so. Mr L instructed Metro to pay the binary options company £800 and it did. Metro isn't responsible for the actions of an unregulated company that Mr L chose to do business with. The fact that the binary options company appears not to be acting in accordance with Mr L's wishes and might indeed be some sort of scam is not the fault of Metro.

In short I've considered everything that Mr L has said. I appreciate how Mr L feels about the whole situation. However all in all I don't think it fair for Metro to have to pay Mr L the £800 he asked it to pay the binary options company. I don't think it did anything wrong in relation to making the transaction or in its position about the transaction after the transaction.

But I do think Metro should pay Mr L £100 for how it treated him in the issues surrounding this transaction. I think this is a fair and reasonable outcome in the circumstances.

### **My final decision**

For the reasons I have explained, my final decision is that I uphold this complaint against Metro Bank Plc and direct it to pay Mr L £100.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr L to let me know whether he accepts or rejects my decision before 30 June 2018.

Rod Glyn-Thomas  
**ombudsman**