

The complaint

Mr G complains that his bank Metro Bank PLC (Metro) has refused to refund the money he has lost following him falling victim to a scam.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary Mr G was searching for investment opportunities online when he came across a business call Monafoli (X). Mr G completed a contact form and X called him back to discuss the investment.

X persuaded Mr G that the investment opportunity was genuine. Mr G was advised to download the screen sharing application AnyDesk, and to transfer funds to X via the legitimate cryptocurrency exchange Crypto.com.

Mr G was confident the investment was genuine as he could see his funds online via X's trading platform, but later found he was unable to withdraw any of the funds he had paid in and had fallen victim to a scam.

Mr G made the following payments to X via Crypto.com using his Metro Mastercard debit card:

1. 18 January 2022 - £4,771.93
2. 18 January 2022 - £4,773.35
3. 19 January 2022 - £1,249.58

Our Investigator considered Mr G's complaint and thought it should be upheld. They thought Metro should have stepped in when Mr G made the second payment on 18 January 2022 and had a meaningful conversation with Mr G about the payments he was making. They thought that if Metro had stepped in it was likely the scam would have been uncovered and Mr G would not have made any further payments.

Metro bank disagreed it said Mr G had authorised the payments and confirmed in a call with Metro that the payments were genuine. So, it was not responsible for his loss.

As Metro disagreed this complaint has been passed to me to decide.

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.

The circumstances of this complaint are not in dispute and the evidence provided by both Mr G and Metro set out what happened well. What is in dispute is whether Metro should refund any of the money Mr G has lost because of this scam.

Metro was unable to process a chargeback for the payments Mr G made in relation to this scam to Crypto.com via his debit card.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Mr G was dealing with X, which was the business that instigated the scam. But Mr G didn't make the debit card payments to X directly, he paid a separate cryptocurrency exchange (Crypto.com). This is important because Metro was only able to process chargeback claims against the merchant he paid (Crypto.com), not another party (such as X).

The service provided by Crypto.com would have been to convert or facilitate conversion of Mr G's payments into cryptocurrency. Therefore, Crypto.com provided the service that was requested; that being the purchase of the cryptocurrency.

The fact that the cryptocurrency was later transferred elsewhere – to the scammer – doesn't give rise to a valid chargeback claim against the merchant Mr G paid. As Crypto.com provided the requested service to Mr G any chargeback attempt would likely fail.

It's been accepted that Mr G authorised the payments that were made from his account with Metro, albeit on X's instruction. So, the starting point here is that Mr G is responsible. However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Metro should have been aware of the scam and stepped in to have a meaningful conversation with Mr G about the payments, and had Metro stepped in whether it would have been able to prevent the payments from being made.

I have looked at the payments Mr G made into the scam.

On 18 January 2022 Mr G made two payments to Crypto.com, for £4,771.93 and £4,773.35. Mr G had not made payments to Crypto.com before and it was unusual for him to make consecutive large payments in the same day. While I wouldn't necessarily have expected Metro's fraud prevention systems to have been triggered by the first payment of £4,771.93, I think they should have been triggered by the time Mr G attempted to make the second payment of £4,773.35 the same day.

Had Metro's fraud prevention systems been triggered I would have expected Metro to stop the payments Mr G was attempting and to have had a meaningful conversation with him about the payments.

I think it's likely that if Metro asked Mr G what the payments were for, and further questions about how the payments came about, it would have found that Mr G had found the details of X online and was being asked by X to send money to it via a cryptocurrency exchange (key indicators of a scam).

In addition to this, if Metro had searched the financial conduct Authority (FCA) warning list it would have found that X had been added to the list around a month before.

So, I think Metro would have been able to uncover the scam by the time Mr G was attempting to make the second payment to X and prevented any further loss.

On 19 January 2022 after the above payments were made to Crypto.com Metro's fraud prevention systems were triggered and it blocked payments Mr G was attempting to make via his debit card. Mr G was required to call in to unblock his card.

Metro has told us that when it spoke to Mr G he confirmed the payments were genuine. Metro has explained it's not required to do more than this and would not have been able to prevent the scam based on the information provided by Mr G. Metro has provided a copy of this call recording, and a second call that was made to Mr G the same day by one of its staff.

During the first call the Metro representative asked Mr G to verify several transactions that had been attempted to CRO for different amounts. The Metro representative only confirmed that it was Mr G that was making the payments. It was discovered later in the call that Mr G was buying Bitcoin but still the Metro representative failed to ask any further questions about the payments that could have potentially uncovered the scam.

The second call Metro had with Mr G was a follow up call to the first. The same Metro representative explained Metro were seeing a lot of fraudulent transactions to CRO and she was checking it was him that had made the call.

This call lasted around two minutes with around 90 seconds of the call being taken up by an initial security check.

During both calls Metro only confirmed Mr G was the person that had made the payments from his account. Mr G was honest in his answers. As explained above, I think that if Metro had a more meaningful conversation with Mr G around the reasons he was making the payments it's likely Mr G would have explained how he had found the investment opportunity and Metro would have uncovered the scam.

I don't think the questions Metro asked in either of these calls were sufficient enough to uncover the scam Mr G had experienced or warn him against it. In any event the block was placed on Mr G's account after he had made all three payments to Crypto.com so it was too late to prevent any of the previous payments being made.

As I've said above, I think Metro's fraud prevention systems should have been triggered and it should have stepped in to have a meaningful conversation about the payments Mr G was making from the second payment he made on 18 January 2022, and if it had done so it is likely it would have been able to prevent Mr G incurring any further loss.

So, Metro should refund the second and third payments Mr G made in relation to the scam.

Putting things right

To put things right I require Metro Bank PLC to:

- Refund all the payments Mr G made into the scam from the second payment he made of £4,773.35.
- Add 8% simple interest per year to the amount it pays Mr G from the time Mr G made the payments to the time Metro Bank PLC provides the refund (less any lawfully deductible tax).

My final decision

I uphold this complaint and require Metro Bank PLC to put things right as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 14 April 2023.

Terry Woodham
Ombudsman