

The complaint

Mrs K complains that Metro Bank PLC did not refund a payment of £1,925 she lost to a scam.

What happened

Mrs K received a text message from who she thought was a legitimate merchant offering her a refund of £95. They convinced her to download Anydesk, as well as a third-party payment service provider and provide her driver's license. She was coached through the process and was told to set up a new payee. When she went to process the payment, she was told the amount of £1,925 was in fact the reference number. When she realised the money had gone, she was told to check her other accounts. Shortly after this, money from her other accounts with third-party banks also went missing.

Mrs K quickly contacted Metro Bank to report the scam and they tried to recover her funds. Unfortunately, none remained. Metro Bank also looked into her scam claim to see if she was due a reimbursement under the Lending Standards Board's Contingent Reimbursement Model ("CRM") Code, which give additional protection to victims of authorised push payment ("APP") scams such as Mrs K, unless certain exceptions apply.

Metro Bank said they could rely on one of the exceptions under the code, namely that Mrs K did not have a reasonable basis for believing she was dealing with the legitimate merchant. As they felt they had met their obligations under the code and that Mrs K did not meet hers, they did not agree she should receive reimbursement. Mrs K disagreed with this and referred her complaint to our service.

Our Investigator looked into the complaint and considered the transaction under the CRM Code. Having done so, they felt Mrs K was vulnerable as set out in the Code. This is because Mrs K is unable to read or write English, which is not her first language, and she requires assistance with her normal day-to-day banking needs. So, they thought Mrs K was vulnerable to this kind of scam and as a result, none of the exceptions under the CRM Code could be applied in this case. So, they felt Mrs K should receive a full refund and apply 8% interest from the date the claim was declined to the date of settlement.

Neither Mrs K or Metro Bank responded to the view with any comments or evidence. As an informal agreement could not be reached between the parties, the complaint has been passed to me 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.

Having done so, I agree with the Investigator for largely the same reasons. I'm satisfied Mrs K has been the victim of a scam here, which was sophisticated in its ability to take

money from multiple accounts. I'm also satisfied the payment from her Metro Bank account was authorised by Mrs K as she was tricked into sending it.

The CRM Code requires firms to assess whether a customer was vulnerable to the APP scam they fell victim to at the time it occurred. The relevant sections state:

"A Customer is vulnerable to APP scams if it would not be reasonable to expect that Customer to have protected themselves, at the time of becoming victim of an APP scam, against that particular APP scam, to the extent of the impact they suffered.

This should be assessed on a case-by-case basis.

In these circumstances, the Customer should be reimbursed notwithstanding the provisions in R2(1), and whether or not the Firm had previously identified the Customer as vulnerable. [...]

Factors to consider include:

(a) All Customers can be vulnerable to APP scams and vulnerability is dynamic. The reasons for dynamics of vulnerability may include: the personal circumstances of the Customer; the timing and nature of the APP scam itself; the capacity the Customer had to protect themselves; and the impact of the APP scam on that Customer

(b) A Customer's personal circumstances which lead to vulnerability are varied, may be temporary or permanent, and may vary in severity over time

(c) APP scams may include long-running APP scams or in the moment APP scams."

In this case, Mrs K was tricked into thinking she was receiving a refund from a merchant when in fact she sent money to a scammer. Mrs K is not able to read or write English well, and she is unfamiliar with banking systems as a result of this. She says that she has never sent funds to anyone outside of her own family and her family members are already set up in her mobile banking, making this a simplified process for her. In addition, she normally uses online banking with the assistance of family members. Her representative, Mr K, says she has trouble understanding what is being asked of her in a conversation.

The scammers were coaching Mrs K in what to do, and this included setting up the new payee and making the payment. The fact Mrs K believed she was receiving a payment highlights her vulnerabilities in relation to this scam. Due to her issues reading and writing in English, she followed the instructions given to her without question.

On balance, I think Mrs K's personal circumstances would have made her more susceptible to falling victim to a scam of this nature, and I don't think it would be reasonable to expect her to protect herself against the APP scam she fell victim to. I therefore think Metro Bank is responsible for reimbursing Mrs K for her losses due to the scam, under the provisions of the CRM Code.

Putting things right

Metro Bank PLC should now:

- Refund Mrs K the £1,925 she lost to the scam

- Pay 8% simple interest per year, from the date Metro Bank PLC declined Mrs K's claim under the CRM Code to the date of settlement

If Metro Bank considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs K how much it's taken off. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons I've explained, my final decision is that I uphold Mrs K's complaint against Metro Bank PLC. Metro Bank PLC should pay the redress outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 11 April 2024.

Rebecca Norris
Ombudsman