

The complaint

Mrs R complains that J.P. Morgan Europe Limited trading as Chase won't refund the money she lost in a scam.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mrs R had a credit card with Bank S. On 1 March 2022, she received a text message purporting to be from Bank S with a One Time Passcode ("OTP") for a payment she didn't recognise. The message read, "If this was not you, please call us on 0330 818 2102".

Mrs R contacted Bank S via its live-chat facility to query the message. She provided a screenshot of the message, which the agent said looked genuine and advised her to call the number provided.

Mrs R clicked the number in the message and was connected to someone claiming to be an agent from Bank S's fraud team who I'll refer to as "the scammer". The scammer explained that someone had attempted to make a payment from her credit card and that they had to block it while they sorted out the problem. The scammer asked Mrs R if she banked with other institutions as different bank frauds were happening, so she should move her money to keep it safe.

As Mrs R's entire pension was stored in her Chase account and she thought the scammer was a genuine employee of Bank S, she agreed to move the money. He placed her on hold telling her he needed to discuss the matter with his colleagues before coming back on the phone to tell her she would have to move her money as soon as possible. He also said that given the amount, Chase might stop the payment, so she should say it was for building works.

Mrs R tried to make the payment of £9,950 to the account details provided by the scammer and Chase blocked the payment and asked her to contact it to verify the payment. During the call, Mrs R said the money would be used to pay for extension on her house and she wasn't being forced to make the transfer. The call handler told Mrs R that if the payment turned out to be a scam, it wouldn't be able to refund the money. They offered her the chance to keep the payment on hold while she did due diligence on the payee, but she declined this and asked for the payment to be processed.

When Mrs R realised she'd been scammed, she contacted Chase but it said it couldn't guarantee a refund and that she should contact the beneficiary bank. But Mrs R wasn't satisfied and so she complained to Chase with the assistance of a representative who said she didn't know what a safe account scam was or that scammers could impersonate banks or replicate phone numbers. They said it should have warned her that number spoofing is a feature of impersonation scams so she could have been more protected and that when it intervened, it failed to ask probing enough questions to understand the context of the payments or to provide effective warnings.

Chase said it was able to recover £40 from the beneficiary account which was returned to Mrs R following the scam claim. But it refused to refund the rest of the money she'd lost. It said it had flagged the payment and asked Mrs R if her account was under attack and whether someone had asked her to move the money. She was given an opportunity to read its scam advice and have the payment put on hold, which she declined. And she was told that if it was a scam, she may not be able to get the funds back.

Chase also said it followed the correct process when flagging the payment, but she didn't answer the questions truthfully and she had failed to do due diligence before moving the funds.

Mrs R complained to this service with the assistance of a representative. She said she sent the payment in the belief that the scammer worked for Bank S and Chase's telephone intervention wasn't effective as the scammer had coached her to lie and it was easy to mislead the call handler. She said that if Chase had done more to understand the true nature of the payment, it could have deterred her from making the payment.

She explained the scammer was extremely professional and when she rang the number from the text message, it sounded like a genuine line. Further, the scammer made her feel under pressure her to act immediately, which gave her no time to think. She also said the level of customer service she received was poor and she felt dismissed and brushed aside. She had to wait three weeks before receiving any correspondence and it failed to provide any scam education.

Her representative said Mrs R didn't regularly make payments this large to new payees and she hadn't made any outgoing payments in the months prior to the scam, so the payment was unusual for the account.

They said that when it did intervene, the call handler was mainly concerned that Mrs R was the one who was making the payment and the questions she was asked weren't tailored to the particular scam. They said it should have asked her whether someone had told her to say the payment was for building work and whether someone was forcing her to make the payment. It should then have provided an effective warning and Mrs R wouldn't have made the payments.

Our investigator noted that Chase's T&Cs state: "If, taking everything into account when the payment was made, we find you should've known you were being tricked into sending money to a fraudster you won't get a refund". She explained that Mrs R wouldn't have known she was speaking to a scammer and she was satisfied she had reasonable basis to believe her money was at risk, especially as she sought advice from Bank S to check if the text message was genuine.

She noted that when Mrs R contacted the number in the text message, she was presented with a holding ringtone before options were given to select the department to speak to and she was satisfied Mrs R genuinely believed she was speaking to a representative from Bank S. Mrs R didn't know about safe account scams, so everything seemed plausible, and the representative even put her on hold explaining they needed to speak to colleagues to confirm this was the right way to protect her money.

Our investigator was satisfied Mrs R was under the spell of the scammer, and fearing her pension money was at risk, she acted quickly to move her it into what she thought was a safe account. She didn't think Mrs R knowingly sent funds to a scam, so she recommended Chase should refund the money she'd lost.

Finally, she didn't think it should pay compensation or legal fees as she could've brought the complaint to the Financial Ombudsman Service herself.

Chase has asked for the complaint to be reviewed by an Ombudsman. It has argued that Mrs R was told by Bank S that she should contact their online banking team, but she used the number in the text. It has said that to be contacted out of the blue is suspicious and the number Mrs R contacted was a normal mobile number, which should have raised concerns.

It has also said that it asked Mrs R the correct questions, but she wasn't honest when answering the questions. And it provided scam education and specifically asked if the money was being moved to a safe account.

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've reached the same conclusion as our investigator. And for largely the same reasons.

The Contingent Reimbursement Model Code (CRM Code) doesn't apply in this case because Chase isn't a signatory to it.

I'm satisfied Mrs R 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, in broad terms, the starting position is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

There's no dispute that this was a scam, but although Mrs R didn't intend her money to go to scammers, she did authorise the disputed payments. Chase is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

Prevention

The payment did flag as suspicious on Chase's systems and Mrs R was required to contact it before the payment was released. But as Mrs R was dishonest about the purpose of the payment, Chase was unable to detect that the payment was being made to a scam. However, Chase's T&Cs state "If, taking everything into account when the payment was made, we find you should've known you were being tricked into sending money to a fraudster you won't get a refund". So, I've considered whether Mrs R should have known she was being tricked when she made the payment.

Chase has argued that Mrs R ignored some clear red flags including the fact she was contacted out of the blue via a text message, and the number in the message was a mobile number. It disputes that Bank S told her to contact the number in the text message and it has pointed out that Mrs R should have been concerned that she was told to lie to her bank. It has also said that she ignored the scam warnings it gave during the intervention call.

It's clear from her account of events that Mrs R did have some doubts about the text message that she received, but she was reassured when she was told by Bank S that the message looked genuine. I accept that this didn't mean the message was genuine but in

contacting Bank S, Mrs R had done what she considered to be reasonable due diligence and I'm satisfied that was reasonable in the circumstances.

Mrs R has also said that she was told by Bank S to contact the number in the text message, but Chase has suggested she was told to contact their online banking team. There's no evidence of what Mrs R was told by Bank S, but I think it's unlikely that Bank S would have told her to contact the number in the text message and I think Bank S probably told her to contact its online banking team and that Mrs R misunderstood the advice and instead contacted the number in the text message.

I've listened to the intervention call and I accept that Mrs R wasn't open about the purpose of the payment. But she has explained that the scammer told her that Chase might stop the payment and so she should say it was for building works. I accept this meant that Chase was unable to prevent the scam but I'm satisfied that Mrs R trusted what she was being told by the scammer and that she thought it was necessary to protect her money.

I also accept that Mrs R was warned about scams, Chase didn't specifically warn her about safe account scams or ask whether she'd been told to lie, and she didn't want to delay the payment to do further due diligence because she was trying to move her money quickly to what she thought was a safe account. So, in the circumstances, while I accept Chase did provide a scam warning, I don't think it was enough to alert her that she was being tricked into sending money to a fraudster.

When Mrs R contacted the number in the text message, she heard a holding ringtone and was required to select from a number of options. She was also asked security questions. The scammer made her feel under pressure to act quickly to save her money and so she didn't have time to think. So, I don't think it was unreasonable that she failed to identify some of the warning signs that she was being scammed.

Overall, I'm satisfied this was a sophisticated scam and, taking everything into account, including the fact Mrs R didn't know about the risk of safe account scams, I'm not persuaded she should've known she was being tricked. Because of this, I agree with our investigator that Chase should refund the money Mrs R lost to the scam.

Compensation

Finally, I agree with our investigator that Mrs R isn't entitled to any compensation or legal fees because any distress and inconvenience was caused by the scammers and while I accept she was unhappy with the customer service she received, I haven't seen any evidence that it fell below a reasonable standard.

My final decision

For the reasons I've outlined above, my final decision is that J.P. Morgan Europe Limited trading as Chase should refund £9,950 plus 8% simple interest*, per year, from the respective dates of loss to the date of settlement.

*If J.P. Morgan Europe Limited trading as Chase deducts tax in relation to the interest element of this award it should provide Mrs R with the appropriate tax deduction certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 12 January 2024.

Carolyn Bonnell

Ombudsman