

## **The complaint**

Ms H complains that TSB Bank Plc didn't do enough to help her when she was the victim of a scam.

## **What happened**

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

On 13 July 2020 Ms H received an e-mail asking her to renew her TV licence. She followed the link on the e-mail and provided both her personal and banking details. Ms H checked whether the TV licence had been renewed and when she was told it hadn't, she was worried about her personal details, so she went to her local TSB branch who gave her the fraud team's telephone number. After waiting on hold to try and speak to the fraud team and listening to the recorded hold message, Ms H didn't continue with the call as she didn't consider her issue to be an emergency, nor did she consider herself to be vulnerable. So, she logged into her online banking, cancelled her debit cards and requested a new card and PIN number – she also did this for her credit card.

On 14 July 2020 Ms H was called by someone purporting to be from TSB. Ms H was asked if she had made some transactions on her account that day which she denied. The person then persuaded Ms H that her money was in danger so he asked her to transfer £7,000.02 from her individual savings account (ISA) to her bank account and then to someone she trusts so they can then send it on to the ISA he was setting up for her. Ms H said she was persuaded to do this because the person was calling from a recognised TSB phone number and sent her what looked like official TSB text messages. Ms H then selected a trusted account she could send the money to. She called her friend, explained the situation, and provided the new ISA account details for the money to be sent to. The money was then sent by Ms H to her friend who holds an account with another bank and then to the new ISA account. The person who called Ms H then said she would receive a text the following morning to help her log back into her online account.

After not receiving a text message the next day Ms H contacted TSB to report the scam but was unhappy to be told her money couldn't be refunded and that her friend should try to claim this back from her bank instead.

Ms H logged into her online account and was surprised to see the scammer had applied for a £3,000 overdraft in her name. She tried to contact the fraud team to make it aware of what had happened, but she said she was told she needed to call back within the fraud team's normal working hours. Ms H called back and made a complaint to TSB about the way the matter was handled and that her money couldn't be refunded.

TSB reviewed the complaint but decided not to refund the money to Ms H. It said that because Ms H's money was sent to a trusted beneficiary on her account before it was sent to the scammer, the fraud didn't occur on her account – so it wasn't covered by its fraud guarantee. But it confirmed the overdraft had been removed from her account and her credit

file would be amended. And it offered her £100 for the service it provided to Ms H when she raised the scam.

Ms H remained unhappy, so she brought her complaint to the Financial Ombudsman. She said the TSB fraud guarantee says it will refund her if she has been the innocent victim of fraud on her account. So, the money she lost should be refunded.

Our investigator didn't think the complaint should be upheld. He said he was satisfied it wasn't the transfer of money from Ms H's account that led to the loss. Instead he said it was the transfer from Ms H's friend's account to the scammer which was the actual cause of her loss. So, he didn't think TSB had done anything wrong here. And he thought the £100 TSB had offered was fair.

Ms H didn't agree and asked for an Ombudsman's review. She said she was the innocent victim of a scam which TSB's fraud guarantee says is covered. She added that transferring the money to her friend's account was only a small part of what happened. And that her money was supposed to be looked after by TSB. So, her money should be refunded.

I considered the complaint and felt it should be upheld. I told TSB I was minded to say that Ms H should have her money refunded because she had been an innocent victim of fraud. I noted that the TSB website explains the range of cover its fraud guarantee includes when compared to other banks. And that it wasn't clear enough on TSB's website that payments made during a scam, which were first made to a trusted beneficiary on a consumer's account, wouldn't be covered. But I felt the £100 it had offered was fair.

TSB disagreed. It said Ms H made a payment to a legitimate account and the funds were received by the intended beneficiary. So, it said there was no loss on the TSB account and its fraud guarantee doesn't apply.

### **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.

I need to consider here whether the money Ms H has lost should be covered under TSB's fraud guarantee and whether TSB has treated Ms H fairly and reasonably. I've considered what both sides have said carefully. Having done so, I believe TSB should refund Ms H with the £7,000.02 she lost as a result of this scam.

Ms H said that she was the innocent victim of fraud on her account which TSB's guarantee says is covered. She's explained the scammer contacted her about her TSB accounts and persuaded her to transfer money out of her ISA, into her account and then to a trusted beneficiary. The scammer then provided details of a new account for Ms H's friend to transfer the funds to. Whilst Ms H was speaking to the scammer an overdraft was taken out in her name.

TSB disagrees. It says for its guarantee to apply, the fraud must happen 'on' its customer's account and there can be no intervening transfer between Ms H's account and the scammers. So, the loss didn't occur on Ms H's account – it occurred when her friend transferred the money to the scammer.

TSB's website explains that its fraud guarantee, which was in place at the time of the scam, is a first in UK banking and it goes further to cover TSB customers against fraud than anything that has come before it. Ms H has correctly pointed out that TSB's website explains that if she is clearly an innocent victim of fraud on her account, the money she lost will be

refunded – even if she makes an honest mistake. And I've seen on the website there is a reference to the range of cover the fraud guarantee provides when compared to what is offered by other banks;

*“How is the TSB Fraud Refund Guarantee different to what other banks offer?”*

*At the moment, there are certain times where banks are legally obliged to refund customers, however even these have loopholes. Our guarantee covers customers who are clearly innocent victims of fraud on their TSB account.”*

After reading TSB's website, I'm satisfied that what happened to Ms H should be fairly and reasonably covered under its guarantee. That's because the wording of TSB's guarantee implies that you will be covered if you're an innocent victim of fraud on your account (which I'm satisfied Ms H was) unless any of the exclusions apply.

So, after considering the wording of TSB's fraud guarantee, I believe its intention is to refund innocent victims of fraud – and Ms H is clearly an innocent victim here. A scammer contacted her to defraud her of the money that was in her TSB account. The scammer also successfully took out an overdraft in Ms H's name at the time of the scam. So, it's clear to me the scam took place on Ms H's account and the intention was to remove all the money the scammer could obtain from her TSB account by telling Ms H to send the money to a trusted beneficiary in the knowledge that this was more likely to be successfully transferred than setting up a new payee.

TSB hasn't raised any of the exclusions as a reason for declining Ms H's claim here because it doesn't think the fraud happened on Ms H's account. But I've considered the exclusions or *'times where the guarantee doesn't apply'* section of the guarantee anyway. These explain that the guarantee doesn't apply where Ms H is involved in committing the fraud or if she has abused the guarantee by deliberately ignoring account safety information and/or making repeated claims. It also doesn't apply where Ms H is disputing transactions where goods or services haven't met her expectations or if the authorised transaction/s (£7,000.02 here) is over £1 million.

After considering these exclusions, I'm satisfied that Ms H's situation doesn't apply to any of them. Ms H wasn't involved in committing the fraud – she was an innocent victim of a common 'safe account' scam and I'm not satisfied she deliberately ignored account safety information. In fact, I'm satisfied Ms H tried to protect her account by cancelling her cards and requesting new PIN numbers the day before the scammer called her. Unfortunately, the scammer used common but persuasive scam techniques by cloning TSB's telephone numbers to gain her trust. He also had access to her personal and banking information due to Ms H completing the fake TV licence renewal form. And her loss isn't over £1 million, nor do I consider her to be abusing the guarantee in the circumstances.

I understand the point TSB is making here that the money wasn't sent directly to the scammer in this instance, but I don't consider the wording of its fraud guarantee to be clear enough to exclude such a common technique used by scammers. I believe that a reasonable person would consider Ms H's loss to be covered under the fraud guarantee as it stands. And if TSB wants to exclude this common type of scam, then it should be more specific, within its fraud guarantee, about what is and isn't covered.

*The service TSB provided*

Ms H is unhappy with the way TSB dealt with this issue when she raised the scam. TSB has closed the overdraft taken out by the scammer, said Ms H's credit file wouldn't be affected and paid her £100 in recognition of the distress it caused. I'm satisfied that TSB should've

handled the raising of the scam more sensitively. I understand the £100 isn't what Ms H wanted from this complaint, but I can only consider how much compensation she's entitled to based upon the way TSB dealt with her the scam she raised. And £100 seems reasonable to me and is in line with what I'd expect in similar cases.

### **Putting things right**

I'm satisfied Ms H's loss should be fairly and reasonably covered under TSB's fraud guarantee. So, it should refund her £7,000.02 and pay her interest at the rate she was receiving in her ISA from the date she transferred the money to her friend to the date of settlement.

### **My final decision**

For the reasons outlined above, my final decision is that I uphold this complaint.

TSB Bank Plc must:

- Pay £7,000.02 to Ms H within 28 days of receiving notification of her acceptance of my decision;
- Pay interest on that sum at the rate Ms H was receiving from her ISA from the date she transferred the money to her friend to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 10 May 2022.

Mark Dobson  
**Ombudsman**