

## Complaint

Mr and Mrs M have an account with Norther Bank Limited. Mrs M is unhappy that it hasn't agreed to pay her a refund after she fell victim to a scam.

## Background

In August 2021, Mrs M received a phone call. She was asked if she'd authorised an online payment for £399. She said she hadn't. Her caller explained that this meant that her account might be at risk. She was transferred to someone who purported to be an employee of a law enforcement organisation. In reality, they were a fraudster.

Mrs M was told that her accounts had been compromised and that she needed to transfer her money to a new account to keep it safe. She visited her local branch on two consecutive days and made payments of £25,000 and £20,000 respectively. She told the bank staff that she was transferring the money to her nephew to buy a house – the scammers had told her that she needed to provide a false reason for the transfer. For context, it's also worth noting that Mrs M had recently been discharged from hospital after being treated for a very serious health condition and told us that she wasn't quite herself.

A bank employee completed a questionnaire with Mrs M. This document included information about six commonly occurring scams and also included five questions for the bank employee to ask the customer. These were:

- *Who is the intended beneficiary of the payment?*
- *What is the payment being sent for?*
- *How did you obtain the sort code and account number and have you been advised of a change to the beneficiary details?*
- *Are you being pressured/coerced to make this payment by a third party?*
- *Have you successfully sent funds to this beneficiary before?*

Mrs M answered these questions to the satisfaction of the bank employee and so her payment was processed.

Shortly afterwards, she suspected that she'd been the unwitting victim of a scam. She told Northern Bank, but it declined to pay her a refund. Mrs M was unhappy with that response and so she referred her complaint to this service. It was looked at by an Investigator who upheld it. The Investigator thought that Northern Bank should've regarded the payments as unusual and out of character and done more to question them with Mrs M.

Northern Bank disagreed with the Investigator's opinion. It said that the branch staff had done everything they could to assist Mrs M. It also pointed out that Mrs M had agreed that a bank employee had asked her several questions, including about the name of the payee – and this gave Mrs M the opportunity to tell them what was going on.

Because Northern Bank disagreed with the Investigator's opinion, the complaint has been passed to me to consider and come to a final decision.

## Findings

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

It is common ground that Mrs M authorised the scam payments. She was tricked by the scammers into instructing Northern Bank to make those payments on the basis that she thought her accounts were at risk from fraud. This was an 'authorised payment' even though Mrs M was the victim of a scam. Nonetheless, under the Payment Services Regulations 2017 and the terms and conditions of the account, she is presumed liable for the loss in the first instance.

However, taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Northern Bank should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

The question I have to consider is whether Northern Bank ought to have recognised the increased risk of fraud when Mrs M gave it her payment instruction and intervened in response to that risk. The payments were certainly out of character. I've looked carefully at the statements for the account and the next largest payments out of the account were several transactions for £500. A request to pay £20,000 should've been a cause for concern and would've justified an intervention on the part of Northern Bank.

As described in the background section to this decision, Northern Bank did intervene here and ran through a standardised fraud prevention process. Unfortunately, I'm not persuaded that its response was sufficient. Mrs M was asked five questions about the payments. Some of these seem to be primarily concerned with preventing a misdirected payment, rather than responding the risk of fraud. Nonetheless, while this questionnaire might be helpful at flushing out some more simplistic scams or helping a customer to pause and think before progressing with a payment, I don't think it was sufficient here.

The bank needed to play a more active role in determining whether there was a meaningful risk of a scam. I'd have expected Mrs M to have been asked a handful of follow up questions after she'd specified that the payment was to assist a family member with a house purchase. Although she had been given some coaching by the scammer, it was superficial. She'd simply been given a false reason for needing to make the payment. If Mrs M had been asked further questions about the details of this alleged house purchase, it would've

compelled her to improvise responses. I think it's likely that a vigilant bank employee would've spotted uncertainty in her responses and that this would be a strong indicator that she'd been targeted by a scammer.

I've also considered the information sheet which was part of Northern Bank's fraud response. This sheet contains brief descriptions of the most commonly occurring scams and Mrs M was asked to sign it after reading. Unfortunately, I think there was simply too much information on this sheet for it to have had any meaningful impact on Mrs M's decision making. It does have a section covering impersonation scams in a generalised way. But it attempts to cover five other types of scam on the same page.

Mrs M had been placed under pressure by the scammer – she sincerely believed that her money was at risk and so would've found it more difficult to process the information on the sheet. Furthermore, the scammers had told her to give a false reason for the payment. It would be unlikely that she'd share the real reason after reading a short paragraph describing impersonation scams. Scams in which the fraudsters tell customers to not be truthful with bank employees are widespread and I'd have expected the bank's response to take account of that.

I've also considered Mrs M's role in what happened. It's clear that she wasn't familiar with this type of scam and so she took the requests from the scammers at face value. I don't think she was negligent in failing to recognise that these requests weren't legitimate. Overall, I'm persuaded that Northern Bank should've done more to protect Mrs M from the risk of financial harm due to fraud. If it had done so, I'm satisfied it would've prevented her from making these payments to the scammers.

### **Final decision**

For the reasons I've explained above, I uphold this complaint.

Northern Bank Limited needs to refund both of the payments that were made in connection with this scam. It should also pay any interest that would've been earned had the money stayed in Mr and Mrs M's account between the date of the scam and the date any settlement is paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M and Mr M to accept or reject my decision before 31 August 2022.

James Kimmitt  
**Ombudsman**