

## **The complaint**

Mr and Mrs Q complain that Northern Bank Limited (trading as “Danske Bank”) have failed to refund over £90,000 they lost as part of an investment scam.

## **What happened**

The details of this complaint are well known to both parties, so I will not repeat everything again in detail here. In summary, Mrs Q paid over £90,000 to a fraudulent investment merchant in 2020 during a period where she was suffering from poor mental health. She made several large payments from her Danske Bank account via bank transfer between 22 September 2020 and 7 October 2020.

Danske Bank originally blocked a payment of £25,000 Mrs Q attempted to make to ‘Forex TB Ltd’ on 22 September 2020 where they warned her about scams and advised her not to make further payments without carrying out reasonable due diligence. However, as Mrs Q was suffering from poor mental health at the time, she proceeded to make several further payments to Coinbase. Danske Bank spoke to Mrs Q again on 24 September 2020 after she had transferred over £50,000 to Coinbase, where they warned her again of the risk of fraud.

Mr Q became aware of the payments around this point where he arranged a meeting with his local branch manager on 24 September 2020. He informed the bank that Mrs Q wasn’t well and agreed with the manager for no further large payments to be processed from the account. However, despite what was agreed in the meeting, a further payment of £24,000 (which was set up as a future payment a couple of days prior) was still allowed to leave the account to be paid to Coinbase on 25 September 2020. Mr and Mrs Q complained to Danske Bank saying it should have prevented the scam payments from being made.

Our investigator upheld the complaint. He didn’t think that Danske Bank were liable to refund any payments Mrs Q made to Coinbase between 22 – 24 September 2020 as they wouldn’t have appeared unusual in light of the spending history on the account, which had seen several large transfers made in the past. But given that Mr Q had put them on notice of the risk of fraud and Mrs Q’s mental health on 24 September 2020, the investigator said Danske Bank should refund the £24,000 payment that was processed the day after, as they ought reasonably to have prevented it. Both parties disagreed, so the matter has been escalated to me to determine.

## **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 conclusions reached by the investigator and have decided to uphold it.

It isn’t in dispute that Mrs Q authorised the disputed payments she made to Coinbase (where they were seemingly transferred on to the scammer from her crypto wallet). The payments were requested by her using her legitimate security credentials provided by Danske Bank,

and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.

However, I've considered whether Danske Bank should have done more to prevent Mrs Q from making the scam payments, as there are some situations in which a bank should reasonably have intervened to take a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character. In this instance, it's not in dispute that the first £25,000 payment Mrs Q made on 22 September 2020 to Forex Ltd was unusual, as it did in fact trigger the bank's fraud prevention systems due to the merchant being listed as a fraudulent company. This prompted Danske Bank to contact Mrs Q and issue a scam warning, which ultimately prevented this particular payment from being made.

However, Mrs Q later transferred around £59,000 to Coinbase, which was made up of four transactions (£2; £10,000; £24,000 and £25,000) sent over the space of three days. However, these payments were made to a legitimate company and crypto exchange, i.e. Coinbase. They were not made directly to a fraudulent merchant as before, so I would not have expected Danske Bank to block the payments based on the payee they were going to alone.

Mr and Mrs Q had also made several large (legitimate) transfers of £25,000 from their Danske Bank account in March 2020. So, I don't consider there was cause for Danske Bank to have regarded the amount of the Coinbase payments as suspicious given that this wouldn't have constituted an unusual pattern of spending for Mr and Mrs Q in light of their transaction history.

I appreciate that the bank did eventually speak to Mrs Q again on 24 September 2020 after she had made two transfers of £24,000 and £25,000 on the same day, as it appears she contacted Danske Bank after making these payments. It's arguable that Danske Bank ought to have intervened *before* the second payment of £25,000 was made (given that more than one large payment had already been made to the same company that day). But even if they had intervened at an earlier point, I'm not persuaded it would have ultimately prevented Mrs Q from making the payments.

Danske Bank had already provided a comprehensive fraud warning about Forex TB Ltd on 22 September 2020, where they warned her she was falling for a scam, told her how such scams commonly operate and said she should contact the police. They also gave her a contact number for their fraud department that she could call if she had any concerns in the future. And although Mrs Q didn't proceed to make the transfer directly to the fraudulent merchant she was warned about, she still proceeded to send money to the scammer via Coinbase on the same day despite the warning she had been given. During the call on 24 September 2020, when asked about the payments made to Coinbase, Mrs Q said she was buying Bitcoin and that it was her risk. Danske Bank said she should consult an independent financial advisor as they couldn't offer investment advice, but Mrs Q said she was happy to take the chance.

I appreciate that Mrs Q was not well at the time, and that she was not in her right mind to make rational financial decisions. But Danske Bank were not made aware of this until Mr Q informed them on 24 September 2020, and I don't think there was anything that would have reasonably alerted them to this based on their conversations with Mrs Q alone. So, it seems that no matter how strong a warning the bank could've given, it likely wouldn't have prevented Mrs Q from falling victim to the scam and making the payments to Coinbase given the state of mind she was in at the time. Therefore, I'm not persuaded that any further/earlier intervention on the part of Danske Bank would have ultimately prevented the payments Mrs Q made to Coinbase between 22 September 2020 and 24 September 2020, so I don't

consider they can fairly or reasonably be held liable for this loss.

However, following these payments, Mr Q held a meeting with Danske Bank on 24 September 2020 after he became aware of what was happening. He says he made them aware of Mrs Q's vulnerabilities and agreed with the branch manager for no further large transactions to be made from the account. But despite this agreement and being on notice of Mrs Q's poor mental health, they still allowed a further payment of £24,000 to be made to Coinbase the following day.

I appreciate this was a 'future payment' that Mrs Q had set up on 23 September 2020. But after learning of the situation from Mr Q and being put on notice of the risk of financial harm, the bank ought reasonably to have cancelled and prevented the payment from leaving the account. So, I consider Danske Bank to be liable for this loss, and I will therefore be directing them to refund this payment to Mr and Mrs Q. I understand a payment of £10,000 was also later transferred out of the account on 14 October 2020 which should have also been prevented. However, seeing as this went to another bank account in Mrs Q's name, Danske Bank cannot be held liable for any subsequent loss of this money (if indeed it was lost, which isn't clear), as the loss did not occur from this account. However, Mrs Q may wish to complain to her other bank if she subsequently transferred this money to the scammer.

I've also considered whether Danske Bank took reasonable steps to try and recover the funds. Coinbase have confirmed that they received recalls from the bank on 24 September 2020, which is the date Mr Q raised his concerns. However, only £2 remained in the account, which Coinbase have confirmed still remains given that restrictions were placed on the account on 25 September 2020. So, it's clear that the money Mrs Q deposited had since been transferred out of the Coinbase wallet in her name. And given Danske Bank sought to recover the funds on the same day the fraud was reported, I don't think they could have done anything more to recover the money in these circumstances.

I appreciate this will likely come as a disappointment to Mr and Mrs Q, and I'm very sorry to hear about the poor health Mrs Q has been experiencing. But while I'm sympathetic to the loss her and Mr Q have sustained, I cannot fairly or reasonably hold Danske Bank liable for the entirety of it for the reasons I've already explained. Finally, I note that Mr Q has also queried other payments that did not form part of his original complaint to Danske Bank. However, he would need to dispute any such payments with the bank in the first instance.

### **My final decision**

For the reasons given above, I uphold this complaint and direct Northern Bank Limited trading as Danske Bank to refund Mr and Mrs Q the £24,000 payment made from the account on 25 September 2020.

Danske Bank should also pay 8% simple interest per year on this amount from the date of loss until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs Q to accept or reject my decision before 14 July 2022.

Jack Ferris  
**Ombudsman**