

The complaint

Mr A and his mother - Mrs A - are unhappy that Citibank UK Limited has not refunded them after Mr A was the victim of a safe account scam.

Whilst this was a joint account, it was Mr A that fell victim to the scam and is acting on behalf of both account holders in bringing this complaint – so I have only referred to him throughout this decision.

What happened

The details are well known to both parties and were set out in the investigator's view of 15 June 2022 - so I won't repeat them here. The investigator upheld the complaint in part – upholding from the third transfer of £14,999.99 onwards but she did not uphold the first two transfers Mr A made. She also felt it appropriate to reduce the refund by 50% as she felt Mr A should share in the responsibility for his losses.

Citibank accepted the investigator's conclusion, but Mr A did not agree. He thought the bank should have identified the first payment as suspicious as it was a high value payment to a new payee. He also said that the second payment took place 11 minutes later and should also have flagged as suspicious. In terms of the investigator's reasoning for the 50% deduction on the refund – Mr A feels the story the scammers gave didn't change – he says it all centred around the fact that fraudsters had been able to identify all of his UK bank account and were trying to compromise them. His other banks have refunded him.

I issued my provisional decision on 18 November 2022 explaining I was reaching an outcome that differed in some respects to the investigator. Both parties responded with further comments.

Mr A said he does not believe the 50/50 split is fair in his case. He explained that by the time he was speaking to whom he genuinely believed was Citibank, he was doing everything to protect his and his mother's money. He explained that all of his late father's hard-earned money and lifetime family savings had been deposited with Citibank for over 10 years. He considers it unfair that he should have noticed the phone number was a standard mobile number and not the bank's official number. He said that the pandemic meant many people worked from home and used mobiles and his Citibank Relationship Manager would often use a mobile to contact him.

Citibank explained that the third transaction was detected as high risk but the second was not picked up by its systems as it was not considered high risk. It has to find the balance between detecting fraud and limited disruption to genuine clients. It did send a scam script with the third payment but it's hard to assume the consumer would be honest with more questions.

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 have considered the responses to my provisional decision.

I appreciate in this case Citibank's fraud detection system didn't identify the second payment as having high risk characteristics and I do accept there is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. And it doesn't automatically follow that a bank is liable for a loss, just because a customer is a victim of fraud. But it's important to consider what would've been visible to Citibank in terms of what it knew about how Mr A uses his account. In this case, I think it should have done more to protect Mr A on the second payment.

I have noted Mr A's comments regarding the mobile number – but it wasn't this on its own – but rather a combination and accumulation of red flags that I feel ought to have reasonably caused concern. I acknowledge that there could be an explanation behind each of the points I've mentioned, when they are all taken into consideration together and holistically, I think there was enough going on to question and check things further.

This is a difficult decision to make; I'm sorry Mr A has lost a considerable amount of money and I can understand why he would like to be compensated for more of his losses. I do accept he has fallen victim to what can only be described as a cruel and callous scam. But I'm only considering whether the bank, which had no involvement in the scam itself, should be held responsible for what happened and whether it is fair to hold it responsible for all of Mr A's losses when there were signs that things were not quite right.

So, I see no reason to depart from the conclusions set out in my provisional decision. I have concluded that the fair and reasonable outcome, in all the circumstances, would be to uphold this complaint. For completeness, I have set this out below.

Mr A has referred to the outcomes on his other banks' cases. Whilst I appreciate those cases were part of the same scam – each case is considered on its own merits. It is important to note there are differences – perhaps most notably that Citibank is not a signatory to the Contingent Reimbursement Model (CRM Code) and Mr A's other cases were resolved informally. So, the outcomes on those cases are not something I will be considering in this case.

It is not in dispute that Mr A authorised the payments in question. He was duped by scammers into transferring the funds into a fake 'safe' account. They deceived him over the phone into thinking that large fraudulent transactions had been attempted on the account. I therefore accept that this was an 'authorised payment' even though Mr A was the victim of a sophisticated scam. So, although he did not intend the money to go to the fraudsters, under the Payment Services Regulations 2017, and the terms and conditions of his account, Mr A 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 Citibank 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 make 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.

In this case, I need to consider whether Citibank acted fairly and reasonably in its dealings with Mr A when he made the transfers, or whether it could and should have done more before processing them.

Did Citibank act fairly and reasonably in Mr A's case?

I appreciate the first transfer was to a new payee, but Mr A had made similar and greater value transfers than this in the past. There is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments.

However, I do feel the second payment ought to have caused Citibank concern and the evidence indicates that it should've done more to protect Mr A when he was making the second payment. I think there were indicators that Mr A was potentially falling victim to a scam – meaning Citibank missed an opportunity to step in and question the payment before it left Mr A's account. I'll explain why.

Although the bank statements indicate a high balance remained after the second payment, when looking at the actual timings of the transfers – it seems the second transfer left very little in the account – certainly when compared to the usual balances. The balance in the account was reduced to around £800 – unusually low. In the months prior – the balance doesn't drop below £43,000 and is usually around £100,000. It was also the second – quite large – payment to a new payee within 11 minutes. I think this activity was unusual.

Safe account scams have very particular characteristics, customers will often quickly consolidate all of their funds into one account and then quickly transfer the total balance out, to a new payee, reducing their account balances to zero or almost zero. The activity that took place on Mr A's account had the hallmarks of a classic safe account scam and is exactly the type of suspicious account activity that Citibank should be on the look-out for. So, I do think the nature of the transaction that Mr A was requesting was unusual and out of character compared to his usual account activity. I therefore think Citibank ought fairly and reasonably to have made enquiries about the purpose of the £18,585 payment before it processed it.

Citibank did in fact intervene on the third transaction - as it recognised itself that the activity was not typical and warranted its intervention. But I am persuaded that this ought reasonably to have happened on the second transfer for the reasons explained above.

I've thought about what would most likely have happened, had Citibank intervened on the second payment. In doing so I've considered the interaction it had with Mr A on the third payment. As Citibank accepted the investigator's findings, it seems that it accepts it would have done more during this interaction - but for completeness – I agree and have explained why below.

I've thought about the interaction Citibank had with Mr A. But the caller simply asks if Mr A has verified the correct account number in order to avoid it going to the wrong person. The caller does go on to ask if Mr A has received any calls from government agencies asking to making a payment or if anyone has called out of the blue asking for payments. The caller then warns: *we see a lot of scam cases so just be aware.*

I appreciate Mr A gave a false reason for the transfer but I'm also mindful that it is widely recognised that fraudsters often provide customers with a convincing reason to make a payment and that fraudsters often instruct customers not to discuss what has happened with the bank. And in those circumstances, as a matter of good practice, it may be appropriate to challenge the customer further. No further questioning around the building work is explored. This is a common cover story given in scam cases and I think the purpose of payment warranted further exploration. The consumer was making a substantial payment to a new payee, and it was the second payment to a new payee within 11 minutes. At this point, there are numerous red flags that indicate that this is not typical activity for Mr A. I think there was enough going on that Citibank ought fairly and reasonably to have made additional checks at this point and to have probed further.

Whilst I accept there is a balance to be struck and there are limits to the depth of questioning a firm can pursue, Citibank could – and in my view ought fairly and reasonably – to have asked Mr A extra questions in this case, essentially to challenge the purpose of the payment and to ask for more detail. For example, it could have asked questions such as, but not limited to; what building work had been done, had they paid the builder before, did they have any paperwork?

Having thought carefully about this, had it asked further questions, I think it is more likely than not that Mr A would have struggled with some of the details underpinning the alleged building work and I don't consider he would have been able to provide plausible answers that would have satisfied Citibank that he wasn't at risk of financial harm. And in the circumstances of this case, I think it more likely than not Citibank would have become more concerned. I'm mindful that Citibank may have not known for sure, what scam Mr A may have been at risk of falling victim to and given the circumstances I understand why. But I also think there was enough going on that Citibank ought to have been alert to other scams Mr A may have potentially been falling victim to, such as safe account or impersonation scams – where typically, as was the case here, entire account balances are almost cleared in transactions that don't appear usual against an account's normal activity.

Overall, I'm not persuaded that in this particular case Citibank took enough steps in its questioning to assure itself fraud likely wasn't taking place, and that Mr A wasn't at risk of financial harm. I'm persuaded that had it probed further it's more likely than not it would have become clear that Mr A was falling victim to a scam, and I don't think he would have gone ahead to make the £18,585 payment or the payments that followed.

Should Mr A bear some responsibility for the overall loss?

I've also considered whether Mr A should also bear some responsibility for his overall losses. In reaching this conclusion, I've had regard to the scene that was set by the fraudsters and the impact I believe this reasonably had on Mr A when acting 'in the moment'. I don't think it was unreasonable for Mr A to have trusted that the calls he received earlier that day were genuinely from his other banks given that the calls had been spoofed to look like they were coming from the genuine bank's fraud department. And I understand in a call from one of his other banks, he was played a recording of someone he was told was impersonating him trying to access his account. So, I can understand why Mr A would be concerned and fell victim to the pressure of acting quickly.

I also appreciate Mr A may not have fully understood that banks don't transfer calls onto each other or might not be aware that banks wouldn't involve a customer in its internal investigations. Especially in the moment of a call like this - where by his own confession – Mr A wasn't able to think clearly. I can also understand why he 'lied' to the bank – as he thought he was helping them with their investigation.

But by the time the fraudster(s) had moved on to "Citibank's fraud department" the number used to contact Mr A for text messages was a standard mobile number rather than a recognised bank number and Mr A had now made transfers to a number of 'safe accounts'. It also appears the fraudster did not know much about his Citibank balances and I understand the balances on the two earlier banks' transfers did not completely clear his accounts.

I have thought carefully about what it is realistic to have expected Mr A to do when he was transferring the sums bearing in mind the pressure, he would have been under in the moment of the call like this. But by the time he had reached the 'Citibank fraud department' I think there were enough red flags and time to have reflected and questioned things more. I therefore do feel it is appropriate to reduce the amount of redress the business has to pay the consumer by 50%.

Did Citibank do enough to recover Mr A's funds?

I've also thought about whether Citibank took reasonable steps to recover Mr A's funds once it was made aware he was the victim of a scam. The first scam payment was made on 23 May 2021 at 12:34 and the last payment made on the same day at 13:50. Mr A reported the scam at 16.21 the same day. Citibank appears to have contacted the beneficiary banks around an hour or so later. The receiving banks have confirmed that all the money (except £4 which was returned to Citibank) had left the accounts within in an hour or two (the final withdrawal having taken place at 14:43). So, although Mr A did not know he was a victim of a scam earlier than this – it was too late for Citibank to recover the money by the time Mr A reported it.

Putting things right

It's not clear whether Citibank has already refunded the £4 recovered from the beneficiary bank – but if it hasn't - it should do so now with interest at the rate of 8% from the date it was returned to Citibank (7 June 2021) to the date of settlement.

But for the scam, I see no reason why Mr A would have moved money from his different currency accounts and so the sums should be returned to the original currency account (without incurring any costs or charges) with interest at the originating account rate.

I therefore require Citibank UK Limited to:

- refund 50% Mr A's transfers from the second transfer onwards (so 50% of £18,585, £14,999.99 and £16,900)
- money should be returned to the currency account from which it originated without any costs or charges - along with interest at the originating account rates from the date of transfer to the date of settlement*;

*If Citibank deducts tax from the interest element of this award, it should provide Mr A with the appropriate tax certificate so he might submit a claim to HMRC if applicable.

My final decision

My final decision is I uphold this complaint in part and require Citibank UK Limited to put things right for Mr A and Mrs A as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A and Mrs A to accept or reject my decision before 3 January 2023.

Kathryn Milne
Ombudsman