

## **The complaint**

Mr H complains that Sainsbury's Bank Plc (Sainsbury's) hasn't refunded the money he lost when he fell victim to a scam.

## **What happened**

In 2020, Mr H was persuaded to invest in Bitcoin through a broker. He made a number of payments to this broker from a different financial institution. He realised that he had been scammed and therefore got hold of what I will call company A. Company A said that it would recover the funds on Mr H's behalf provided he pay a fee to this company via a cryptocurrency exchange.

On 22 June 2020, Mr H made three payments of £300 to Blockchain Bitcoin totalling £900. Sainsbury's said that one of these payments were flagged with its automated fraud prevention measures and an SMS was sent. Mr H in response to the SMS confirmed he'd authorised the transaction and therefore Sainsbury's believes it did not need to have done anything more. It also said that it called Mr H and left him a message on the 23 June 2020 again asking Mr H to contact them and it sent a letter to him as well.

Our investigator considered this complaint. They upheld it on the basis that they believed that as Sainsbury's had flagged the transactions as suspicious it should have done more to intervene prior to the transactions being processed and that an appropriate intervention by Sainsbury's would have stopped the scam.

Sainsbury's disagreed as it believed that it had done enough. It said the onus was on Mr H to perform due diligence before making the transactions and says that had Mr H done so, he would likely have discovered that he was being scammed.

This complaint was therefore passed to me to issue a decision.

## **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.

It's not in dispute that Mr H fell victim to a scam. His payments totalling £900 were ultimately sent to a fraudster. But, as he authorised them, the starting position is that Mr H would be liable for the payments.

But there are some situations where we believe that banks – taking into account relevant rules, codes and best practice – ought to have identified a fraud risk, so should have looked at the wider circumstances surrounding the transaction, before making the payments. If Sainsbury's failed to do so, and that failure led to a fraudulent loss, it might be fair to hold it liable.

In this case, Sainsbury's recognised that one of these payments were not normal for Mr H. Because of this, the payment was flagged on its fraud alert system and a text message was sent to Mr H asking him to confirm he'd authorised it. I note that Sainsbury's is not certain which payment was flagged by its fraud system. Without anything to say which payment was flagged, I have considered what is most likely given the overall circumstances of this complaint. With this in mind I think that it is more likely than not that it was the first one as the account had not been used before and was of a high-risk nature (according to Sainsbury's fraud notes) given where it was intended to go.

But it isn't enough for Sainsbury's to check that Mr H had authorised the payment – many scam victims do. And while Mr H made the payment and it was made to a legitimate cryptocurrency exchange, it didn't follow that he wasn't at risk of financial harm due to fraud. Sainsbury's internal notes suggest that it was concerned about potential fraud and the risks associated with this payment. So in the circumstances, I think Sainsbury's should've done more than it did do, to check that the payment was not related to a scam before allowing it to be carried out.

Had Sainsbury's carried out its due diligence and duties and asked Mr H appropriate questions about the payment before letting it be carried out, I have no reason to doubt that Mr H would have explained what he was doing. I say this as he had been given no reason to think he had to hide this information from his bank.

Had Sainsbury's asked specific questions, I'm satisfied it would have realised that what was happening to Mr H had the hallmarks of a cryptocurrency recovery scam. So, I'm persuaded that a meaningful intervention from Sainsbury's at that time would have likely exposed the scam. And I think it's more likely than not that intervention would have stopped Mr H from going ahead with any payments.

I note that Sainsbury's did phone Mr H on the 23 June 2020 and left him a message asking for him to call back. I think until Mr H had contacted Sainsbury's and been questioned Sainsbury's should not have allowed the payments to go through. After all, Sainsbury's were concerned enough to text, leave a message and send a letter to Mr H.

I've also thought carefully about whether Mr H should bear any responsibility for what happened. Sainsbury's have explained that as Mr H had recently been the victim of a scam, then he should really have been more careful. But I am mindful that this was a different type of scam and it is not clear from a quick search on the internet that company A is a fraudulent company.

I note Sainsbury's comments about other things it considered a "red flag" such as the language used, the contact methods and the e-mail address. But I am not persuaded that they are enough to have made Mr H suspicious of who he was dealing with, especially as Mr H was provided with what on the face of it looks like a letter saying that A was authorised to recover funds. So overall I don't think that Mr H should bear responsibility for what happened.

### **Putting things right**

Mr H made the payments from his credit card. So If Mr H hadn't made the payments, he wouldn't have incurred any interest or charges on that amount on his credit card (if indeed he did so). And he's been deprived of the money he used to repay his credit card.

I therefore require Sainsbury's to:

- Refund Mr H the £900 loss incurred from his credit card and rework his account to reimburse any interest and charges levied as a result, as though the payments had not taken place.
- Pay 8% simple interest per annum, less tax, on any credit balance this would result in, from the date of the credit balance to the date of settlement.

### **My final decision**

Because of the reasons given above, I uphold this complaint and require Sainsbury's Bank Plc to do what I have set out above, in full and final settlement of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 7 February 2023.

Charlie Newton  
**Ombudsman**