

## **The complaint**

Mrs and Mr H complain that Citibank UK Limited (“Citibank”) failed to refund money they lost as a result of a scam.

## **What happened**

Mr H was the account holder involved with the scammers, so I’ll mainly refer to him throughout the complaint.

Mr H received a call on his phone from a person purporting to be from his credit card provider (not Citibank). Mr H was asked about suspicious payments made using his credit card that Mr H didn’t recognise. The phone call between the caller and Mr H took about 45 minutes. During the call, Mr H was asked whether he’d recently replied to a NHS text and provided any details on it.

Mr H remembers replying to the text and giving some basic information, including credit card details. The caller told him this was a scam and his phone was now likely infected with malware. During the call, Mr H was told that attempts to use his credit card had been stopped and he’d suffered no loss.

Towards the end of the call, Mr H was asked if he had other banking apps on his phone as they may now be infected by the “malware” mentioned earlier. Mr H confirmed he had a couple of apps including one for his Citibank accounts.

Mr H was advised to call his bank about the possible security breach on his account. When Mr H agreed that he would call them, he was told that they (the scammers) could transfer the call to Citibank’s fraud dept because they worked together to combat fraud. Mr H thought this was plausible and asked to be transferred. He later said that he was very concerned about his funds in the Citibank account and was keen to protect them as soon as possible.

Mr H was “transferred” to another person who pretended to be from Citibank and Mr H described both callers as very calm and well-spoken with a great deal of knowledge about banking and fraud.

The second part of the call also took about 45 minutes and Mr H was told that he would need to move his funds to another account. Mr H was concerned about any change in his account because he had a number of direct debits linked to it. The scammers told him they would also be taken care of during the process. Mr H described how he was slightly concerned about this, but the caller persuaded him that the transfer to the new account was normal. They went on to explain that he would need to move his funds to a different bank because his Citibank accounts were compromised and if another (Citibank) account was opened the same thing would happen again.

Mr H was provided with new account details and entered them himself using the Citibank app, including putting his own name on the transfer details. When Mr H received a One Time Passcode from Citibank (as part of the security process) – he completed the transfer of £11,000 to an account at another bank. Mr H asked for the caller’s name so he could check

the details through an employment website but couldn't find the caller's name.

Mr H was then asked about other accounts at Citibank and the scammers asked for these to be moved. It was at that point that Mr H became concerned that he'd been scammed and ended the call. Mr H then called Citibank who confirmed the money had been paid to another UK bank. Once Mr H explained what had happened – Citibank notified the receiving bank about the scam payment and later returned just over £3,000 to Mr H. The remainder of the funds had already been taken from the account by the scammers.

Mr H asked Citibank for a full refund of his losses, believing that Citibank had failed to protect his account. Citibank declined to make any refund and believed that because Mr H had authorised the payment himself, they weren't responsible. After complaining to Citibank – who again declined any refund, Mr H brought his complaint to the Financial Ombudsman Service for an independent review.

Mr H's complaint was investigated and detailed information about the complaint was sought from both parties. Mr H was able to recount the phone call and in summary said:

- The callers were very persuasive and well spoken.
- The first call he received didn't involve the scammers asking him for anything, only to appear to help in preventing fraud.
- They took a long time to gain his trust and it wasn't until the second part of the call that moves to transfer his funds were made.
- Their reasoning was very plausible, and they never used the "safe account" term with Mr H.
- Any questions asked by Mr H during the call were answered smoothly – including why they protected their number (no caller ID) and how they could transfer from one business to the next.
- Mr H was very concerned by the call and the conversations were designed to increase his sense of urgency.
- Mr H didn't think the way the calls were handled was suspicious.
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Citibank argued that the transaction wasn't particularly suspicious because Mr H used his account to make similar sized payments.

After reviewing the information, the investigator thought that the transaction stood out when compared to Mr H's use of the account as it virtually emptied it and went to a new payee. He thought that Citibank should have intervened and recommended they make a refund. But, he thought that Mr H should bear some of the loss. That was because there were some unusual aspects to the call that he thought Mr H could have checked at the time before sending his payment. Specifically:

- The scammers didn't carry out any form of verification on either call.
- They had little detailed knowledge about Mr H.
- Mr H didn't check that he was talking to a legitimate employee of the credit card company.

- He didn't check the suspicious transactions (on his credit card) the caller mentioned, in order to verify them.

The investigator recommended that Citibank repay 50% of the outstanding losses and Mr H bear the other 50% himself. Citibank agreed with the investigator's recommendation, but Mr H didn't. He asked for a further review of his account and submitted additional information for consideration:

- Mr H didn't think he'd failed to conduct additional checks during the call, and it was unreasonable to expect him to do so when taking into account the sense of urgency and panic that had been created by the scammers.
- Mr H did question why the number didn't appear and was given a credible explanation that the fraud team don't give it out. Mr H was unaware what the usual procedure would be as he'd no prior experience of this type of situation.
- Mr H didn't think the lack of verification was unusual as he believed the caller was trying to prevent fraud and knew enough about him to sound legitimate. Also, he never asked for sensitive information which went towards allaying Mr H's suspicions.
- The scammers spent a long time gaining his confidence. Mr H said it was about 1 hour 35 minutes into the call before the transfer of his funds was mentioned. He believes this was "social engineering" to gain his trust.
- Mr H didn't believe that checking his credit card transactions would have assisted the situation as he believed that the scammer would have had a plausible explanation for whatever he did or didn't find regarding the unauthorised payments they mentioned.
- The scammers knew he'd clicked on a spoof NHS link (likely because it was them that sent it) and this helped to persuade Mr H they were genuine.
- They had a ready explanation for the transfer of the call to another bank – and explained that they worked together to prevent fraud.
- Mr H believed that Citibank's systems were inadequate and didn't conduct any checks on the new account. He also believed their warnings were ineffective.
- Mr H says he wasn't aware of this type of scam and had no reason to be suspicious.

I issued my provisional findings on the merits of Mrs H and Mr H's complaint on 27 January 2023. In my provisional findings, I explained why I intended to uphold their complaint and offered both sides the opportunity to submit further evidence or arguments in response. An extract of that decision is set out below and forms part of this final decision:

***What I've provisionally 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.*

*Both parties accept that Mr H authorised the transaction himself, so here, the responsibility, in the first instance, lies with Mr H because Citibank are required to follow his instructions and are expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations (2017) and the terms and conditions of*

*the customer's account.*

*But, Citibank also has an obligation to be on the lookout for, and to protect its customers from, potentially falling victim to fraud or scams. This includes monitoring accounts and identifying suspicious activity that appears unusual and out of character. In situations when potential fraud is identified, I would expect Citibank to intervene and attempt to prevent the loss.*

*Citibank originally argued they hadn't made an error because the payment authorised by Mr H wasn't unusual when compared to the normal operation of his account. The investigator argued that it was, because of the new payee that was set up and the amount transferred virtually emptied the account. Citibank accepted the investigator's view about this and agreed to refund 50% of the loss.*

*Having looked at the statements, I agree with the investigator's assessment of the way the disputed payment appeared against the usual operation of the account. The new payee together with an immediate payment that virtually empties the account are signs of suspicious activity that I would expect, particularly with the size of this payment, that Citibank should have identified and gone on to carry out further enquiries with Mr H.*

*If they had contacted Mr H about the payment, I think it would have been quickly established that he was being scammed and the full loss prevented. That's because Mr H would have explained what was happening and told them about the call and the subsequent transfer from one company to the next. They'd have realised this wasn't how they operate their business and likely concluded a scam was in progress.*

*These types of scams rely on small pieces of information – probably gleaned from the NHS scam text to spin a story to the victim of the scam, here Mr H. A common feature of this type of scam is to create a sense of urgency and fear in the victim, preventing them from thinking clearly in the moment.*

*I'm sure in the cold light of day, Mr H wouldn't have made decisions he did during the call when he was on the phone for a considerable time with the scammers. It sounds like they were very patient and worked to gain his trust whilst increasing his sense of urgency to ensure he accepted their instructions.*

*Mr H did question some of the circumstances such as the "No caller ID" on his phone and it appears the scammers were well prepared. Their explanation wasn't unreasonable as to why it never showed on his phone and even if it did, it's difficult to ascertain it's genuine when these numbers are often "spoofed" by scammers to make it appear they're from the fraud department of the bank.*

*I don't think Mr H's lack of verification of either his account or the transactions they were telling him about was unusual, given that the scammers had already gained Mr H's trust by appearing to only want to prevent fraud. I wouldn't expect Mr H to understand the fraud process carried out by his credit card provider or Citibank. He's also said that he assumed they had his details which is why they called him and were already satisfied about Mr H's credentials.*

*I think that if Mr H had questioned the particular transactions the scammers were telling him about they would have had a suitable story to explain why he couldn't see them on his banking app, as they had done with other queries made by Mr H.*

*But, I do think the offer to "transfer" to another company was a bit unusual, but again the scammers seemed to have been prepared for this with an explanation concerning joint industry working to stem fraud. What's relevant to the complaint – and whether Mr H can be*

*held responsible for some of his losses – is what was happening at the time and did he contribute to them. Contributory negligence is assessed as “a lack of care on the consumer’s part that goes beyond what we would expect from a reasonable person”.*

*So here it’s not about whether a fraud expert or an industry insider would have followed the instructions given to him by the scammers – it’s whether a reasonable person in the same situation would have done the same thing. But, as I’ve already mentioned – the scammers work on various levels to gain people’s trust and to instil a sense of urgency and panic to override their more logical assessment of what’s happening and what they’re being told.*

*Scams of this nature work across a short time frame, so it’s not a situation where Mr H had time to think about what he was being told or asked to do. I’ve no doubt that had he had that time, he would have thought some of the explanations given to him bore further scrutiny and other checks. But that wasn’t the situation he found himself in and I don’t think it was unreasonable, given the specific circumstances of this complaint, that he followed the instructions of the scammers. I think it particularly relevant that Mr H wasn’t immediately asked to give the scammers anything – they appear to have laid the groundwork during the first call and by not seeking sensitive information from Mr H, they avoided triggering further suspicion, so by the time they did ask him to move the money – he’d accepted they were helping prevent fraud, rather than steal from him.*

*The scammers seem to have avoided using the term “safe account”, which is often used to describe these types of scams, and I’ve no doubt this was deliberate to avoid associating the call with a type of scam well known to the financial sector. In fact, Citibank provide a warning about such scams on the banking app prior to making transfers to new payees. Mr H said that he was aware of this warning, but it often appeared on the banking app and he eventually became “blasé” about it. Considering the situation he was in and the trust that had been built up, I don’t think it’s surprising that the warning didn’t resonate with Mr H.*

*Overall, I don’t think that the actions taken by Mr H during the call were particularly unreasonable and I don’t think he should be held responsible any of the loss. Citibank failed to intervene when they should have, which would have prevented the full loss and Mr H’s part in this was, after all, as the victim. I do accept that the scammers were responsible for stealing these funds, but as Citibank didn’t prevent them being transferred when I think they should have, my current thinking is that Citibank should refund the outstanding loss (£11,000 - £3,054.35 = £7,945.65) to Mrs H & Mr H including interest at the account rate from the date of the loss to the date of the settlement.*

### ***My provisional decision***

*My provisional decision is that I currently intend to uphold this complaint as outlined above.*

Mrs H and Mr H accepted my provisional decision, but Citibank did not, adding that:

- They now disagree that the disputed transaction was suspicious, highlighting various account movements over the previous 12 months that they believe make the disputed transaction one that shouldn’t have been flagged by Citibank.
- They didn’t believe that a reasonable person would undertake a transfer of funds to another account they had no affiliation with or trust that banks worked together.
- They believed that because Mr H was on the phone for an hour and a half – this was time for him to think rationally about the situation.

- They didn't think that it was reasonable for Mr H to dismiss the fraud warnings because he'd become blasé about them.
- They thought that Mr H should have been suspicious about the funds that were left in the account (£466.30) if it was genuinely at risk of fraud.
- That Mr H had some concerns about the transfer because he'd wanted to check the name of the person he was dealing with and had questioned the "No Caller ID" on his phone.
- Citibank believe that Mr H was negligent when based on the actions of a reasonable person.
- Citibank believe that my decision should follow similar cases that haven't been upheld.

### **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 thank both parties for their correspondence following my provisional decision and the points raised by Citibank. I've considered those points, but I haven't seen anything new that would change my mind. Where I've already considered the issues raised by them in my provisional decision, I don't intend to duplicate what I've already written.

Citibank have highlighted various account movements they think makes the disputed transaction appear as though it was a normal transaction (and therefore shouldn't have been identified as unusual or suspicious). I'm afraid I disagree with their assessment. As mentioned already, the new payee combined with the virtual emptying of the account should have registered with Citibank as an unusual transaction. The other payments from the account of a similar size (or larger) were to well known investment businesses or other commercial accounts which didn't, on their own, leave the account in the same way as the disputed transaction did.

There aren't a similar set of activities on the account in the previous 12 months that I've looked at, despite Citibank's interpretation of some of the account transactions. I haven't considered those transactions referred to by Citibank that occurred after the disputed transaction because those payments didn't form part of the history of account usage that Citibank could reasonably rely on at the time.

I understand Citibank will have their own view of the events that happened here, but the scammers built trust in Mr H over a period of time and it wasn't until he was asked to move other funds from his accounts that he stopped his interaction with them. By then he'd already lost the bulk of his funds in the account. I think the trust that was built up with Mr H is of particular relevance with this complaint together with the pressure built by the scammers to generate an emotional reaction (fear of losing funds) rather than a logic-based assessment which Citibank believe Mr H should have had.

Citibank also believe that my decision here should follow other similar cases, which is, not to uphold the complaint. But, each complaint is assessed on its individual merits, so I can only make my decision based on the evidence of what happened to Mr H and not what other complaints have concluded.

Overall, I remain of the opinion that Citibank should have intervened which would likely have

prevented the loss of his funds. I don't think that Mr H can be held responsible for any of the loss himself as the evidence doesn't show that he acted unreasonably in these specific circumstances.

### **Putting things right**

Citibank should now repay ( $\pounds 11,000 - \pounds 3,054.35 = \pounds 7,945.65$ ) to Mrs H and Mr H including interest at the account rate from the date of the loss to the date of the settlement.

### **My final decision**

My final decision is that I uphold this complaint and Citibank UK Limited are required to settle the complaint as detailed above.

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

David Perry  
**Ombudsman**