

The complaint

Ms W complains that J.P. Morgan Europe Limited trading as Chase (Chase) wouldn't refund the money she lost in a scam

What happened

What Ms W says:

On 13 July 2022, Ms W was contacted by someone claiming to be from the provider of her credit card (which I will call A). He said there had been some fraudulent transactions on the card and he would put her in touch with A's fraud unit. They put her through to a 'universal fraud team' – said to be acting for all banks. They convinced her to move her funds out of her Chase accounts – they said it was likely all her accounts would be hacked. They told her she needed to move her money into an account in a different name – a name the supposed fraudsters couldn't recognise – then her money would be safe. The scammers then talked her through the process, telling her to ignore any calls or warnings from Chase – as this would interfere with their 'investigation'.

Ms W was told to move her money from her Chase savings account to her current account - and then transfer it into an account nominated by the scammers. The money was sent to a limited company account, with a named 'manager' as a beneficiary. The transfer from her savings and the three payments were: **(continued below)**:

| Date / Time | Type of payment | Amount | Balance |
|------------------------|--|--------|---------------|
| 13 July 2022: 16.38 | Transfer from Chase savings to Chase current account | £9,350 | £9,351 credit |
| 1. 13 July 2022: 16.51 | Faster payment | £3,500 | £5,851 credit |
| 2. 13 July 2022: 16.53 | Faster payment | £3,000 | £2,851 credit |
| 3. 13 July 2022: 16.55 | Faster payment | £2,500 | £351 credit |

A fourth payment for £350 was stopped by Chase.

She was told she couldn't access her account until the following day, as it would be blocked for 24 hours. The scammers told Ms W to delete the Chase app (and other bank apps) from her phone. She contacted Chase in the evening of 14 July 2022, only to find out she had been scammed. After that, she was disappointed to learn that Chase told her they wouldn't refund the money as she had been called by someone purporting to be A, and not someone posing as Chase.

Ms W said she wasn't normally a gullible person and felt stupid and embarrassed at what had happened. She suffered from anxiety, and this had made it worse. She had now lost all her savings and was in financial difficulty. She was now on universal credit and using food banks. She had to sell some personal belongings to make ends meet.

What Chase say:

Chase said they'd fulfilled their responsibilities and wouldn't refund the money. In their submission to our service, Chase said this was because Ms W had been contacted by someone purporting to be A, and not Chase. They said that in a call with Ms W on 14 July 2022, a fraud specialist talked to Ms W and asked why Ms W had agreed to transfer the funds into an account in another name. Chase said they contacted the recipient bank on 15 July 2022, but no funds remained to be returned to Ms W.

Our investigation so far:

Ms W brought her complaint to us. Our investigator said Chase should refund the second and third payments. Because by the time of the second payment, Chase should've intervened – as it is common for scammers to make high-frequency payments to a new payee. The payments were also out of character, based on the usual activity on Ms W's account.

But he said Ms W should bear some of the loss as the scammer didn't verify her

with any security checks; and she didn't check her account to see if the fraudulent payments had been made as the scammer had said. He said the fact that the scammer said there had been fraud on her other accounts should've led her to be suspicious about what was happening. So – our investigator said Ms W should get a refund of 70% of the last two payments.

Neither Ms W nor Chase agreed. Chase argued:

- The payments weren't unusual for Ms W. They said there were other, frequent payments of a similar amount from her accounts.
- When a new payee was created, Chase sent messages to Ms W to warn her about moving money to a 'safe account'.
- Ms W didn't try to verify if the call from the scammer was genuine.
- They'd tried to get the money back from the recipient bank – they emailed it on 15 July 2022, but no funds remained.

Both Chase and Ms W asked that the complaint be looked at by an ombudsman, so it has come to me to do that.

I issued a provisional decision which said:

I'm sorry to hear that Ms W has lost money in a cruel scam. It's not in question that Ms W authorised and consented to the payments in this case. So although Ms W didn't intend for the money to go to the scammer, she is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case. But that is not the end of the story. 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 Chase 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.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) doesn't apply in this case. That is because Chase are not a signatory to it.

I need to decide whether Chase acted fairly and reasonably in its dealings with Ms M when she made the payment, or whether it should have done more than it did. I have considered the position carefully.

My first consideration is whether Chase should've been concerned about the payments – and whether they were out of character for the normal activity in Ms W's accounts. The important matter here is whether this was a payment that Chase might reasonably have considered unusual, and therefore whether they should've held or stopped the payment and contacted Ms W about it.

I looked at Ms W's accounts. She had a savings and a current account. They were opened on 27 April 2022. Ms W's current account had no activity until the credit of £9,350 and scam payments in July 2022. It had a balance of £1 as of 1 July 2022.

I can also see (as Chase have said) that Ms W did make some payments from her savings account to an account (possibly in her own name) with another bank: two payments for £4,500 and £1,300 were made on 20 June 2022, and two more payments of £600 and £300 were made to the same account on 6 July 2022 and 7 July 2022.

In this case, Ms W never used her current account and only ever used her savings account to transfer funds to another account with a different bank. So moving her entire savings balance to her current account was unusual, although I accept that savings accounts can be used to save for one off large purchases.

I think Chase acted reasonably in processing the first payment of £3,500. Although it was unusual for Ms W to set up a new payee, the amount transferred was relatively small and left the account with a healthy balance. And as Chase has pointed out, they provided a new payee warning that referred to safe account scams at the time of this first payment. There's a balance to be struck: Chase has obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction as this would cause unnecessary disruption to legitimate payments. Overall, I'm satisfied Chase acted reasonably in processing this payment.

I turn now to the other payments. By the time Ms W made the second payment request for £3,000 - she sought to transfer £6,500 within around two minutes to a newly created third party payee. This was highly unusual given Ms W's previous account and payment history and the fact that Ms W transferred her entire savings balance before making the payment adds to this. And an unusual pattern of spending was starting to emerge.

The scam payments were made in rapid succession: the transfer of £9,350 to the current account from the savings account took place at 16.38; the first payment to the scammer was at 16.51; the second payment was at 16.53; the third payment was at 16.55. And – the account was drained to almost zero balance within minutes – and it would've been a balance of £1 if Chase hadn't stopped the last payment of £350.

So I consider Chase ought reasonably to have intervened and asked Ms W about the reason for the payment and provided appropriate warnings that brought safe account scams to life. My understanding is that no warning was provided when the second payment request was made as the recipient was no longer a new payee. But even if I'm wrong, I don't consider an on screen warning went far enough. Chase will be aware that scammers often tell their victims to ignore such warnings and create a sense of panic and urgency that mean they rush the payment.

I haven't seen any evidence to suggest Ms W was provided with a cover story, so I think if Chase had asked her why she made the payments she'd have been honest. And if Chase had explained all the hallmarks of a safe account scam, I'm persuaded Ms W would have made additional checks and not gone ahead with the payment. It follows that Ms W wouldn't have made the subsequent payments either.

Chase has referred to the contact they made when Ms W tried to make a further payment of £350 which would have totally cleared her account. Ms W didn't reply and so Chase didn't allow the payment to be made. Whilst I'm pleased Chase took this step, I think their intervention came too late.

I've gone on to consider whether Ms W's actions mean she should share responsibility for her loss with Chase. In considering this point I've taken into account the sense of fear and urgency created by scammers in scams of this nature. Ms W was led to believe that if she didn't move her funds as directed, she'd lose them. In the circumstances, I can understand why Ms W moved past the warning Chase provided when she set up the new payee and why, in the moment, she didn't complete checks that with the benefit of hindsight she should have.

This pattern of transactions fits the usual pattern of safe account scam payments being made to a new payee, in rapid succession and which drain the account of funds. But on balance, I think Chase should reasonably have stepped in to ask probing questions about the payments – and if they had, then Ms W could've been warned about the scam and stopped them. However, because there had been a small number of large payments from Ms W's savings account, I can accept that on balance, Chase acted reasonably in allowing the first payment of £3,500 to be made. But – after that, I think it's reasonable to say that Chase should've have stepped in.

Recovery

Ms W contacted Chase in the evening of 14 July 2022 at 21.05 – she was told by the scammers that her account would be blocked until then. And she had deleted the app on her phone – as told to by the scammers. Chase's fraud team worked 8am to 8pm. And after that, Chase did what it was expected to – on 15 July 2022, just after 8am, Chase contacted the recipient bank. We also asked that bank for evidence about what happened. And I can see the funds were removed within minutes of being received at the recipient bank. So – unfortunately, the money couldn't be recovered.

Distress and Inconvenience.

I listened to the call made by Ms W to Chase on 14 July 2022 – when she reported the scam. Chase had tried to call her three times during that day. Chase's call handler was very empathetic and helpful – as Ms W was upset. But equally, he did say that Chase would refund the money to Ms W.

He said, *"we are going to put this right...you have my guarantee on that... we are going to get this sorted for you...trust me on that....aim to get funds back asap"* (and) *"put things back the way they should be"*. So – Ms W's expectations were raised, and so it was a shock when Chase told her (on 20 July 2022) that they wouldn't refund anything. Ms W has explained that she suffered from anxiety, and she has had to go onto universal credit and use food banks because of the scam. So here – in the circumstances of what happened, I think it's reasonable that Chase should pay compensation of £200.

In summary, I think Chase should reasonably have stopped the second and third payments of £3,000 and £2,500. I don't think there should be any deduction. Chase should pay interest at their savings rate on the money from the date of the scam to the date of settlement. This is because the funds used in the scam were transferred from this account and would likely have remained in the account were it not for the scam. And Chase should pay compensation of £200 for distress and inconvenience.

Responses to the provisional decision:

Chase agreed. Ms W made no comments. I now need to consider a final 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.

As Chase agreed, and Ms W had no comments to make, my final decision is in line with the provisional decision.

My final decision

I uphold this complaint. J.P. Morgan Europe Limited trading as Chase should:

- Refund the payments of £3,000 and £2,500.
- Pay interest at Chase's savings rate from 13 July 2022 to the date of settlement.
- Pay compensation of £200 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 3 July 2023.

Martin Lord
Ombudsman