

The complaint

Miss M has complained Northern Bank Limited, trading as Danske Bank won't refund money she lost from her accounts as a result of a scam.

What happened

In 2021 Miss M received a call from someone stating they were from her bank, Danske. The number they were calling from was one digit away from the number she knew was Danske's. She was told they were from the fraud department and warned that her accounts had been compromised and her money wasn't safe. She was warned that Danske had stopped a fraudulent payment of £25,000 being made and that a fraudster had tried to set up a direct debit.

She was under a lot of work pressure at the time and suffers from ADHD so felt stressed, struggled with processing all the information she was being told as well as being extremely concerned.

Miss M followed the instructions she was given. She transferred all the money from her Danske savings account into her current account, then set up a new payee and transferred £7,750 to that account at another bank. She was aware the account name didn't match but was persuaded by the fraudsters that this was acceptable. The fraudster, aware that Miss M's account may be subject to a daily transfer limit, persuaded her to transfer the remaining funds in her Danske account to another account she held with another bank (who I'll call R). She made three separate payments.

Miss M then emptied her account with R, sending money to another named account.

She was told she'd get a call back within an hour. When this didn't happen, she called Danske's emergency line and was encouraged to alert the police. She did this and asked Danske to refund her. They wouldn't do so.

Miss M brought her complaint to the ombudsman service.

Our investigator noted Danske had not taken steps to warn Miss M of potential scams or undertook any additional checks on her payments. However she didn't feel that the transactions were sufficiently unusual to merit such warnings. Therefore she couldn't ask Danske to refund Miss M.

Miss M didn't agree with this outcome. Her complaint has been referred to an ombudsman.

I completed a provisional decision on 25 April 2023. I asked Danske to refund Miss M in full as I believed they could have taken steps to intervene.

Miss M accepted this outcome. Despite prompting we heard nothing from Danske.

I now have all I need to complete my 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.

Having done so, I've reached the same outcome as I did in my provisional decision. What follows explains my thinking which has remained the same.

There's no dispute that Miss M made and authorised the payments. Miss M knew who she was paying, and the reasons why. At the stage she was making these payments, she believed she was taking urgent action to keep her own money safe. She believed once this had been done, the money would be sent back to her.

I don't dispute Miss M was scammed but under the Payment Services Regulations 2017 I'm satisfied the transactions were authorised.

It's also accepted that Danske has an obligation to follow Miss M's instructions. So in the first instance Miss M is presumed liable for her loss. But that's not the end of the story.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider that Danske should:

- have been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- 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 (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions are generally more familiar with than the average customer.
- in some circumstances, irrespective of the payment channel used, have taken additional steps or made additional checks before processing a payment, or in some cases declined to make a payment altogether, to help protect its customers from the possibility of financial harm.

Miss M fell victim to a sophisticated scam. Unfortunately safe account scams – which is what this was – are not massively unusual. Miss M realises how this happened as she responded to a fake text supposedly from a delivery company. This allowed fraudsters to know Miss M had an account with Danske and meant they could tailor their approach to her and make it completely believable.

So, for example, the call Miss M received came from a number practically identical to the Danske phone number. The fraudster was able to explain the difference by saying he was calling from the fraud department mirroring the set up many corporates have where phone numbers increase or decrease by a digit. The fraudster was also able to explain in detail how Miss M should make the payments and direct her to the relevant aspects on her app. They were also able to pre-empt her concerns that the payee may not match the named account. At the time of this payment, Danske weren't using the industry's confirmation of payee set-up.

Danske has confirmed they do have mechanisms in place to check unusual transactions but are unwilling to share any detail on these. What they have said is what Miss M was doing wasn't sufficiently unusual to trigger any warnings.

However I find this surprising. Miss M firstly emptied all the savings she had with Danske and paid that into her current account. This wasn't a simple round figure, say £10,000. But the whole amount, £10,037.96. That immediately strikes me as unusual.

Then Miss M set up a new payee and transferred £7,750 to an account with another bank. This was more money than had been in her account before she transferred all of her savings into her current account. There's no record of a similar type of payment on her account within the preceding six months. I note what Danske has said about Miss M making a similar value payment to another account at the same destination bank in May 2021, but I don't believe any argument that this reflects her normal payment behaviour stacks up.

Miss M then transferred all the remaining funds within her Danske current account to her account with R. Again there's no record of any alert being presented to Miss M despite her emptying her Danske accounts of all her funds.

For these reasons I believe Danske should have issued a warning at the time Miss M transferred £7,750.

As I say, safe account scams are not unusual. All banks are aware of how these operate. Danske has confirmed they sent text warnings to their customers, including Miss M, in February and June 2021 about so-called impersonation scams. These are unlikely to have registered with Miss M as they wouldn't have seemed relevant at the time.

However if a warning had been issued along these lines when Miss M had made this payment, I think this may have caused her to doubt what she was doing. It's clear Miss M was caught up in what was going on. But at the same time, her testimony shows that she questioned the fraudsters and receiving an official message from her bank, I believe, would have stopped her from making these payments.

Putting things right

I'm satisfied that if Danske had taken action to warn Miss M, as I believe they should have at the time she tried to make the first payment to a new account, she wouldn't have made that payment, nor the three further payments to her own account at R.

As I believe any intervention Danske should have made would have altered what happened here, I am going to ask them to refund Miss M's money in full.

I'm aware that the loss of £9,778.39 only happened when Miss M made the transfer of those funds from her account with R. However I'm satisfied that Miss M was only able to transfer that money from her account with R, because Danske did not intervene. So I'm satisfied it's fair and reasonable to ask them to refund that aspect of her loss too. Miss M also lost money that was also in her account with R which it would not be fair to ask Danske to refund.

My final decision

For the reasons I've given, my final decision is to instruct Northern Bank Limited, trading as Danske Bank, to:

- refund the full £17,528.39 Miss M transferred to a fraudster from her Danske account;
- add the interest applicable to Miss M's savings account at the time to the £10,037.96 Miss M transferred into her current account from 12 October 2021 to the date of settlement; and

- add 8% simple interest a year to the remainder of Miss M's loss from 12 October 2021 to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 23 June 2023.

Sandra Quinn
Ombudsman