

The complaint

Mr B complains that J.P. Morgan Europe Limited trading as Chase ('Chase') wouldn't refund a payment he lost in a scam.

What happened

What Mr B says:

Mr B says he was contacted by his credit card provider (who I will call A). The caller said there had been a suspected fraudulent transaction on his credit card. Mr B said he didn't recognise the transaction, but he couldn't talk then and said he had to speak to the caller later. He 'googled' the caller number and it was from A's number. Later, the caller phoned Mr B again and said the credit card fraud with A had been stopped, but his other bank accounts were open to fraudsters because of a virus affecting all banks. The caller asked if Mr B had any other accounts and he said he had a Chase account.

The caller said he acted for all banks and said he could deal with Mr B's Chase account. By this time, Mr B was agitated – as he was in his car, his mobile phone was running out of charge and he was tired and stressed after work. The caller was insistent that Mr B needed to act urgently to protect his money. He gave Mr B the details of two accounts to transfer his money into.

Mr B drove home. The caller contacted him again and two transfers of funds were made or attempted. These were:

Date	Time	Transaction	Amount
27 September 2022	19.02	Transfer from Mr B's Chase savings	£10,000
27 September 2022	19.16	Payment	£9,781
27 September 2022	19.21	Transfer from Mr B's Chase savings	£10,000
27 September 2022	19.25	Payment	£9,694 (blocked by Chase)

Mr B then called A and his other bank (B). A said there had been some other fraudulent transactions on his credit card – and these were stopped. B bank confirmed there were no problems with that account. Once Mr B calmed down, he realised he had been scammed. He then called Chase, got through at 20.17 - and explained what had happened. He asked that the payments be stopped. He was put on hold for 30 minutes and only managed to

speak to Chase at 20.55. Mr B says that at that time, the two payments were showing in the app as 'pending'. Eventually, Mr B managed to speak to someone at Chase, but by then one payment was showing in his app as having been made, and the other was shown as 'pending'.

Mr B reported the scam to the police. The whole episode was very stressful for him – and the time taken to get through to Chase added to this. He said there hadn't been any activity on his Chase accounts since its opening. He said Chase didn't do anything to protect his money. Chase later told him they'd received £11.25 from the scammer's account with the recipient bank.

What Chase say:

Chase didn't uphold Mr B's complaint. They said because it was 'bank A' that contacted Mr B, they couldn't help. They advised customers in the app that they'd never call them and ask to move money to keep it safe – as this was a well-known scam technique. They had recovered some money – but that was far less than Mr B had paid to the scammer.

Our investigation so far:

Mr B brought his complaint to us. Our investigator said Chase acted reasonably. She didn't think the payment made by Mr B was unusual, based on his normal account activity. His account was opened six months before the scam, and in April 2022, he transferred into the account £25,000 and then moved it out again. There wasn't any other activity until the scam. But – she said the payment to the scammer didn't stand out as unusual. Chase told our investigator they'd given a generic warning to Mr B when the new payee was set up. She said Mr B didn't contact Chase at the time of the payment, so Chase couldn't have been alerted to the scam.

So – our investigator said Chase didn't need to refund any money.

Mr B didn't agree and asked that an ombudsman look at his complaint.

I reached a provisional decision which said:

I'm sorry to hear that Mr B has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr B didn't intend for the money to go to the scammer, he 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 aren't a signatory to it.

I need to decide whether Chase acted fairly and reasonably in its dealings with Mr B when he made the payments, or whether it should have done more than it did. I have considered the position carefully.

In their evidence to us, Chase confirmed they stopped the second payment of £9,694 – as it was picked up by their system as a possible fraud. So Mr B's complaint concerns the first payment of £9,781.

The first consideration is whether the payment of £9,781 was sufficiently unusual when compared to his normal account activity – and if it was, should Chase have reasonably stopped the payment, and contacted Mr B about it.

I looked at Mr B's account. It was only opened in April 2022 – five months before. And in that month, he transferred into the account one amount of £25,000 (on 27 April 2022), and then immediately moved it out again - on the same day. But – the transfers were to and from Mr B's personal savings account with Chase – so I don't consider these transfers could reasonably be considered as normal payments activity. The balance then stayed at £20 and there was no activity until the scam on 27 September 2022. So – for the purposes of considering the payments activity on Mr B's Chase account, the account was 'dormant' and had no activity between when it opened and the scam. So – the payment in September 2022 was unusual and it would've been reasonable for Chase to be alerted to that.

On 27 September 2022 - there was a transfer of £10,000 into the account - from Mr B's personal savings account with Chase. This was made only a few minutes before the first payment.

After the credit of £10,000, the first payment of £9,781 was made – it was almost the same amount as the transfer in, and the payment almost drained the account of all its funds (the remaining balance was £239).

A similar pattern was followed for the second payment – there was a credit for £10,000, followed by the payment attempt of £9,694. This was successfully blocked by Chase.

I can also see that the payee was set up as a new one by Mr B. So I think that there were enough 'red flags' here to have alerted Chase to the possibility Mr B was being scammed. He transferred funds from his savings account to his current account that hadn't been used in five months, and immediately afterwards made a large transfer to a new payee. This was the first time Mr B had made a payment to a new payee. Given these points, Chase should've reasonably intervened to stop the payment and ask questions of Mr B.

Chase have argued that they displayed a generic warning to Mr B when he set up the new payee. We asked Chase more about this – and it was a 'generic' message and didn't require Mr B to click on a confirmation that he was happy to go ahead. Therefore, I don't think that, of itself, means Chase aren't responsible for what happened.

Chase also argue that there are generic warnings in the 'move money' area of their app to warn against scams – again, I don't think that of itself, this means that Chase aren't responsible for Mr B's loss of money.

From the information Chase have provided, it appears that Mr B used a 'pay friends and family' option when setting up the new payee. In responding to this provisional decision, we invite Chase to provide more information about why the payee was being set up by Mr B, and the specific warnings that Mr B may have been given at the time. I would say that even if Mr B was provided with a 'safe account' warning, it may not have gone far enough – as the warning doesn't mention spoofed telephone numbers or the specifics of the scam Mr B fell victim to.

Mr B's calls to Chase:

Mr B has argued that because he couldn't get through to Chase, the payment of £9,781 was made. So – I've considered this point. Chase showed us evidence that the payment was made and released at 19.16. And Mr B told us he first called Chase at 20.04. Chase's records show Mr B contacted them via the app at 19.30 as Chase had asked that he get in touch.

The recipient bank also confirmed that Mr B's payment of £9,781 was received into the scammer's account at 19.16. Therefore, by the time Mr B first contacted Chase the payment had been made.

Would intervention have made a difference?

I then considered whether intervention by Chase would've made a difference – if the right, open questions had been asked of Mr B (either on the phone or in webchat) - about the purposes of the payment and the circumstances about the contact made. And I think it would have. There's enough evidence in what Mr B has told us which suggests the scam could've been uncovered by such questioning. For example, Chase could've told Mr B another bank/credit card firm could never act for Chase, or have access to Chase's accounts.

I then considered if Mr B could've prevented the scam himself – in other words, did he contribute to what happened and should he bear some responsibility for the loss? In this case, I don't think it would be reasonable to say Mr B could've done anything differently – the call seemed genuine, the number they called from had been spoofed (and Mr B did check it himself); and it was clear that Mr B was put under extreme pressure after a long day at work.

Recovery:

We expect the paying bank to make all reasonable efforts to contact the recipient bank to try to recover the funds – to stop them being removed by the scammer. Chase later recovered £11.25 – but of course that was a small amount compared to the size of the payment.

We asked the recipient bank about the contact made by Chase.

They showed us that Chase contacted the recipient bank at 11.59 the next day – 28 September 2022. I considered whether that was reasonable – as Mr B advised them of the scam the evening before.

Chase told us that at the time of this scam, their fraud department worked the hours of 8am to 8pm. But even so – I don't consider that to wait until midday the following day was quick enough. I can see that some of the money (£3,980) was removed from the scammer's

account by 19.40 on the evening of 27 September 2022. So – Chase couldn't have prevented that.

But on the other hand, £5,790.12 was removed from the scammer's account at 11.37 on 28 September 2022 – so if Chase had taken quicker action than they did, it would be reasonable to say this withdrawal could've been prevented.

However because of the provisional decision I am making - I don't think that this consideration matters.

In summary, my provisional decision is that it would've been reasonable for Chase to have intervened in the payment, stopped it, and asked more questions of Mr B. If they had, it's probable the scam could've been prevented. So – Chase should refund £9,781 to Mr B. The funds were transferred from his Chase savings account, and therefore Chase should also pay interest on the amount of the refund at the savings rate from 27 September 2022 to the date of settlement.

Responses to the provisional decision:

Chase agreed with the provisional decision, and so did Mr B.

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 both Chase and Mr B agreed with the provisional decision, my final decision is unchanged from it. And so Chase must do what it set out.(continued)

My final decision

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

- Refund £9,781.
- Pay interest on £9,781 at Chase's savings rate from 27 September 2022 to date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 July 2023.

Martin Lord
Ombudsman