

The complaint

Mr H complains that Danske Bank A/S (Danske) won't refund money he lost in a scam.

What happened

What Mr H says:

Mr H was on a betting website and he wanted to send money to it. He received a 'pop up' to what appeared to be a payment portal. But it turned out to be a fake payment screen and he was scammed out of his money. He entered the security code on his phone and made four payments as shown:

Date/ Time	Payment	Amount
8 September 2023 – 18.38	Mobile phone to scammer	£150
8 September 2023 – 19.32	Mobile phone to scammer	£730
8 September 2023 – 20.03	Mobile phone to scammer	£680
8 September 2023 – 20.33	Mobile phone to scammer	£750
Total		£2,310

He noticed his gambling account hadn't received the funds, so he made a number of payments. He then tried to contact the payments company on webchat, but they blocked him. He then looked up the company online and saw they had similar complaints and realised he had been scammed. He contacted Danske on 9 September 2023 to report the scam. He says he was told they would get the money back, but they let him down - as they didn't.

Mr H says he'd asked Danske to put a block on any gambling payments to support him. So - Danske should've stopped the payments and protected him, but didn't.

What Danske said:

Danske said Mr H had authorised the payments and they made them as Mr H directed. They'd tried to recover the funds from the recipient bank, but no funds remained. They told us that the block on gambling transactions was on a 'best efforts' basis and they couldn't always guarantee to stop such payments. But in any case – the block could only apply to registered and licenced gambling sites – and the beneficiary wasn't one of those.

Our investigation so far:

Mr H brought his complaint to us, and our investigator didn't uphold it. He said the payments

were in line with his normal account activity and therefore it wasn't reasonable to expect Danske to stop them, even though they were made in quick succession of each other.

Mr H asked that an ombudsman look at his complaint and so it has come to me to make 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.

I'm sorry to hear that Mr H 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 H didn't intend for the money to go to a 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 Danske 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.

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

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) proves refunds where scams have taken place in certain circumstances. But – the Code doesn't apply in this case because Danske hasn't signed up to it.

In this case, I don't consider Danske acted unfairly or unreasonably in allowing the payments to be made. Whilst I understand the loss has had a big impact on Mr H, I don't consider the payments were so out of character that Danske ought reasonably to have had concerns that Mr H may be the victim of fraud. I looked at Mr H's account. And he made regular payments of a similar amount to the scam payments. For example:

March 2023: £236; £235; £235.

April 2023: £235; £1,000; £250; £250; £250.

May 2023: £890; £750; £312.65.

June 2023: £2,250; £1,225; £250; £259; £259.

July 2023: £250; £350; £259; £260.

August 2023: £280; 259; £250; £259; £241; £500.

And - there's a balance to be made: Danske has certain duties 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. In this case, I think Danske acted reasonably in processing the payments.

In other words, the sums of money involved were too low to cause Danske to intervene and question them.

Mr H argues he had asked Danske for a block on gambling payments. Danske told us this will only work with licenced gambling merchants and will not prevent card payments to unlicensed gambling firms – which this was. I accept that was the case here.

Recovery

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Danske took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money. And here – they did contact the recipient bank and no funds remained. I would comment that this wasn't a surprise – as normally in such scams, funds are removed from the recipient bank immediately.

Mr H has said to us that Danske said they could get the money back but didn't – and therefore misled him. I considered this and listened to the calls he made to Danske on 9 September 2023 and 13 September 2023 - and I didn't hear the call handlers say they would get the money back – only that they would start the process to try to get it refunded. They said *"...see if we can get it back...not guaranteed...but our fraud team are brilliant, so let's see..."*. I don't think it's reasonable for me to say Danske said they would get the money back - there wasn't a commitment they would be successful.

I'm sorry Mr H has had to contact us in these circumstances. I accept he's been the victim of a cruel scam, but I can't reasonably hold Danske responsible for his loss.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 9 February 2024.

Martin Lord
Ombudsman