

The complaint

Mr F complains that Northern Bank Limited trading as Danske Bank ('Danske') didn't do enough to protect him when he fell victim to an investment recovery scam.

What happened

In late 2017, Mr F was cold called by a merchant purporting to offer binary options investments. He understood this merchant was regulated and he could make a large sum investing with it, so he began sending funds from a number of his accounts. Mr F sent funds to invest using his Danske credit card and his Danske current account between January and February 2018. In July 2018, the investment platform disappeared, and Mr F understood they had gone bankrupt. He believed all his funds were lost.

In September 2018, Mr F researched ways to recover the lost funds online. He was then cold called by someone purporting to work for a claims management company who said they could help him get his money back. Mr F made ten payments on his Danske credit card and one payment on his debit card from September 2018 until May 2020 to cryptocurrency firms for this recovery. Then he discovered this was also a scam.

Mr F complained to Danske in May 2023 about being the victim of the original investment scam and two recovery scams. Danske didn't uphold this recovery scam complaint, it said there was no reason for it to suspect the payments at the time. So Mr F came to our service.

Our investigator didn't uphold Mr F's complaint. He didn't think any of the credit card payments or the debit card payment were suspicious so that Danske should have contacted Mr F about it, outside of the intervention it did do. Danske didn't reply to the assessment.

Mr F maintained that he only sent these payments as a result of the original scam, so these shouldn't be considered separately to it. And he considered Danske should have intervened on more of the payments, and had it done so effectively, it would've unravelled the scam. I issued a provisional decision on this case in October 2024. My findings were as follows:

Having taken into account longstanding regulatory expectations and requirements, and what I consider to be good industry practice, Danske ought to have been on the look-out for the possibility of fraud and made additional checks before processing payments in some circumstances.

I have reviewed Mr F's credit card account and the payments he made to the scam. Having considered when they were made, their value and who they were made to, I'm not persuaded Danske ought to have found any of the payments suspicious, such that it ought to have made additional enquires of Mr F before processing them.

I accept the payments went to cryptocurrency providers, but that doesn't mean they should automatically be treated as suspicious, particularly when there are no other concerning factors about the payments, and they were made from 2018 to 2020.

Mr F operated his credit card in a particular way, paying in funds and then using this money to buy cryptocurrency. Most of the payments were fairly low value, especially considering this was a credit card. And the times Mr F does spend a higher amount, £6,000 in one day, he follows the exact same spending pattern as other times. He pays in money in advance of the spending, then spends these funds. This doesn't indicate fraud on the account, but instead a genuine, but larger spend. And as I've set out, these payments followed how Mr F had been using his credit card.

I accept that Mr F was the victim of a scam, but I don't think Danske ought to have had concerns about this from his credit card spending.

I've then thought about the payment on Mr F's debit card in April 2020. But I don't consider it ought to have intervened on this payment. It isn't out of character with other spending on the account and as it's for £2,000 I don't consider the amount in itself ought to have been a concern for Danske at the time. I recognise Danske did intervene on other similar payments at other times, but my role is to consider whether Danske ought to have intervened on this payment, and I don't consider it did.

I also note that Danske spoke to Mr F less than two weeks before this payment, due to a payment related to a different scam Mr F was also falling victim to. The notes are detailed and set out that the investment recovery firm came up and it was explained to Mr F that a genuine firm wouldn't be behaving in this way. But despite this conversation and having his EBanking suspended due to the other scam, Mr F made this debit card payment and another payment on his credit card to the recovery scam. So his behaviour doesn't indicate he would've listened to any warnings by Danske even if it had spoken to him again.

I have thought about the arguments Mr F has made in relation to this recovery scam and how he only fell victim to it because of the original scam. But I am satisfied that our investigator correctly considered the two scams separately and that there is a break in the chain of causation.

Mr F has told us he did research to try and find a way to recover his funds and after this is when he was contacted by the second recovery firm. I haven't seen anything that links the second firm to the original scam merchant and Mr F understood he was dealing with an entirely separate company. The second recovery firm also has its own FCA warning in 2019, not suggesting any links to the original scam. And Mr F was sending funds an entirely different way, through cryptocurrency firms.

Mr F has said that it should've been reasonably foreseeable to Danske that Mr F would look to recover his funds after they were lost and it hadn't helped him. But the link trying to be made here isn't simply related to the desire to recover lost funds. How Mr F went about this is key. He chose to look up firms online and give out his details, he accepted another cold call and then set up cryptocurrency accounts and sent money to this unknown company via them. While wanting to recover lost money can be attributed to the original loss, I don't consider all the steps Mr F then took can be considered as reasonably foreseeable. There are a number of times Mr F could've made a different decision or taken a different approach – independent, intervening acts – and these break the legal chain of causation.

I don't agree the second recovery scam can be considered a reasonably foreseeable consequential loss, so that Danske should be automatically liable for these payments too. And whilst Mr F has undoubtedly been the victim of a cruel scam, I don't find there were any failings on Danske's part that would lead me to uphold this complaint.

Danske accepted the provisional decision. Mr F disagreed and explained that if Danske or the other bank he used to pay towards this scam had appropriately intervened on the payments he made to the original scam, including warning him about future scam contact, he wouldn't have fallen victim to the recovery scam.

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've considered the further submissions made by Mr F, but they haven't changed my outcome on this case.

There are no FCA warnings about any of the merchants Mr F made payments to in relation to the second scam. All the payments from Danske go to genuine cryptocurrency providers. And I maintain my findings that Danske didn't miss any opportunities to intervene on this scam.

I accept that by not intervening in the first scam, Danske didn't use a natural opportunity to warn Mr F about recovery room scams. However I maintain that the legal chain of causation is broken in this case and I'm not persuaded that any warning it gave would've prevented further losses.

By the time I consider Danske should've spoken to Mr F in relation to the first scam, he had already shared personal details with the scammers and been paying them for a few weeks through another bank. I've covered the responsibility of this other bank on the relevant case. But Danske couldn't have then prevented the scam merchant accessing and sharing Mr F's information and/or contacting him about future opportunities.

And I can see that despite the multiple warnings and scam education Mr F did later receive, he continued to send funds to the recovery scammers and fell victim to similar scams with his other bank. Even when Mr F reported early payments to the recovery scammers to his other bank, telling them he thought he'd been scammed and he couldn't withdraw funds, he then continued to send money for a further 18 months. He did receive scam education at this time, but went against this and his own concerns this was a scam. And as above, he also sent further funds after he'd spoken to his banks in 2020 and reported this scam to the Police.

As set out in my provisional decision, Danske also blocked Mr F's Ebanking at one stage due to another scam. Part of this conversation explained the recovery merchant was not acting in a legitimate way. Despite this, Mr F continued to pay them but in different ways, therefore not making it obvious to Danske that he was continuing despite their conversation. This does not indicate to me that an earlier warning or advice would've prevented Mr F's losses. And I also don't think Danske had enough information to block his accounts entirely. It also couldn't implement additional measures on the account without Mr F's consent. And it seems clear from his behaviour that he wanted and would continue to send funds despite the concerning information he held.

I recognise why Mr F does feel the second set of funds he lost is intrinsically linked to the first set, but I maintain that the steps Mr F took that resulted in the loss of the second set of funds breaks the legal chain of causation. And that this loss cannot be considered so reasonably foreseeable that Danske should refund it. I do recognise Mr F vulnerabilities, but as I don't think Danske missed opportunities to intervene and protect Mr F, it follows that I still don't hold it liable for these payments.

My final decision

For the reasons set out above, I don't uphold Mr F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 4 December 2024.

Amy Osborne
Ombudsman