

The complaint

Mr B complains that J.P. Morgan Europe Limited trading as Chase – as the recipient bank, didn't do enough to prevent his loss.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here. In October 2023, believing he was helping his son replace his damaged phone, Mr B sent a payment of £750 from his account with bank 'D', to the account details provided. The account where the money was received was held with Chase. When Mr B realised he'd been the victim of a scam, he reported this to D, who contacted Chase, but no funds remained. He also contacted Chase directly and reported the incident to Action Fraud.

Mr B complained. He asked Chase to refund his full loss as he believes it has allowed a criminal to open and use a bank account to misappropriate funds. He also asked that it provide police with the account holder's details including checks that were completed before the account was opened and confirm to him that this had been actioned. Chase issued its final response after Mr B had referred his complaint to our service. It didn't agree to refunding Mr B's loss and said it was unable to provide him with any further information. However, it did accept there were delays in responding to Mr B's complaint and offered £150 compensation for this.

Our Investigator was unable to obtain sufficient information from Chase. So he recommended that the complaint should be upheld as Chase had failed to evidence its position despite being given numerous opportunities to do so. He recommended that a full refund of Mr B's loss should be provided plus 8% interest per annum from the date D sent Chase notification of fraud to the date of settlement. He thought the offer of £150 for the delay in responding to Mr B's complaint was fair compensation. As Chase didn't respond, the complaint was passed to me to decide. Following this, Chase provided our service with further information.

On 3 December 2024 I issued a provisional decision in which I said:

"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 a different outcome to that of our Investigator. So, I'm issuing this provisional decision to give everyone a further opportunity to comment before finalising my decision. I realise the outcome will be disappointing for Mr B, and I'm genuinely sorry to hear about his loss, but I can't fairly and reasonably ask Chase to refund this. I'll explain why.

Firstly, I can't ask Chase to refund Mr B's financial loss punitively. In circumstances such as these where Mr B has no direct relationship with Chase, and his complaint is about a third-party account into which he was tricked into transferring funds as a result of alleged authorised push payment (APP) fraud. I can only ask Chase to refund his loss if I think it has failed in such a way that it can fairly and reasonably be concluded that its act or omission (for matters within our jurisdiction) caused the loss or it is otherwise fair and reasonable for them to do so. An account later found to have been utilised to receive fraudulently obtained funds doesn't automatically entitle the payer(s) (here Mr B) to a refund from the recipient payment service provider (PSP) nor does it mean that that receiving PSP has reasonably failed to prevent the loss incurred.

I appreciate there is never an easy way to deliver news that may not be welcomed or expected, and inevitably the nature of my role is such that I will disappoint one party. I can see how that might lead to questions being asked about our service's impartiality. But I'd like to assure Mr B that we are an independent and impartial service – we do not take sides. And I must carefully consider the evidence provided by both parties before reaching a determination about a complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case.

When considering complaints of this nature, I can understand why, with the benefit of hindsight, it's sometimes easy to say the recipient PSP ought to have identified the account was being opened to misappropriate funds, that the activity on the account was fraudulent and that it ultimately should've done more to prevent the loss, or even that it could've done more to assist in the recovery of the funds upon receipt of notification of fraud. However, I must be clear, when deciding this complaint, I need to think about what Chase knew at the time – not what is known today. And where it is supposed (as is the case here) that Chase didn't do enough. My role is to look into the individual circumstances of the case and decide, based on what I have seen, whether it should have fairly and reasonably done more. When doing so, I am required to take into account (1) relevant: (a) law and regulations; (b) regulators' rules, guidance and standards; (c) codes of practice; and (2) (where appropriate) what I consider to have been good industry practice at the relevant time.

Account opening

I've carefully considered Chase's actions when opening the account, and I'm satisfied that Chase carried out checks (in line with its regulatory obligations) to verify the identity of the accountholder and did its due diligence (so far as reasonably possible) when opening the recipient account. I appreciate the account has since been used to receive fraudulently obtained funds, but from what I can see, Chase couldn't reasonably have foreseen this at the point at which it opened the account. So I don't think it missed an opportunity to prevent Mr B's loss when opening the account.

Monitoring of the recipient account

I appreciate Mr B finds it astounding that I do not consider receipt of money and its immediate withdrawal to another account suspicious. But this alone wouldn't be a basis for a PSP to suspect misuse of an account. I've reviewed the statements for the recipient account. It was a newly opened account, so there was not much activity before the arrival of Mr B's payment, so I can't say that anything before the arrival of his funds would've given Chase a cause for concern. Likewise, I don't think the arrival of Mr B's payment, nor the movement of those funds out of the account would have given Chase a cause for concern in a way that I'd say it ought to have intervened. The payments were not large, nor were they sufficiently suspicious in nature/pattern. There also weren't any prior concerns or fraud notifications before Mr B's funds were paid away.

I note Mr B says when he was making the payment from his account with D, it had blocked the payment and given him warnings that it may be a scam. So he questions why Chase hadn't identified this. From what I've seen the warnings D provided were based on the information Mr B had shared with them about the purpose of the payment he was making, there is no evidence to support that it was, as he has suggested, information D was in possession of about the recipient account. So even if I were to agree (which to be clear I don't) that Chase ought to have intervened before allowing funds to leave the recipient account, on balance, it's most likely a plausible explanation for the activity would've been given by the accountholder to gain access to the funds. And in these specific circumstances I don't think there would have been any reason (at that point) for Chase to have had an objective basis for not making payments its customer had asked it to make or to otherwise have needed to have done more. This is particularly the case in the absence of any reports or notifications about the account, the named payee on Mr B's payment instruction matching the accountholders details and nothing which at that point substantively indicated misappropriation of funds.

Ultimately, I don't think Chase reasonably could have prevented Mr B's loss in this way as the incoming and outgoing payments didn't reach the point where they were so suspicious or indicative of potential fraudulent use of the account where I think Chase ought to have intervened and done more prior to processing them.

Response to notification of fraud

I'm satisfied that by the time Chase were on notice that its customer's account was potentially being used to misappropriate funds, Mr B's money had already been utilised. It responded to D's notification of fraud in a timely manner (the next day) to advise no funds remained which it could return, and it took appropriate action in relation to the account.

I know Mr B is unhappy that Chase hasn't reported the matter to the police. However, it isn't Chase's responsibility to do so. It is for the victim of crime – here Mr B, to report the matter (which I understand Mr B has done). I'd expect Chase to co-operate with any police investigation – including the sharing of any information if they were to request it. I've not seen any evidence of the police being in touch with Chase or which shows it has failed to comply with police enquiries.

Mr B has raised concerns about Chase not reporting this as a money laundering offence, and if it hasn't done so, how its failure to do so could be viewed as complicity in this offence. Our service's function is limited to resolving individual disputes between eligible complainants and regulated financial businesses. We aren't the regulator and do not have the power to punish or fine a financial business for failure to comply with their regulatory obligations. If Mr B believes Chase has failed in its money laundering obligations, he can report this to the regulator. I also don't need to make a finding on whether Chase ought to have done so, because even if I were to say they should've done, it doesn't make a material difference to whether any of Mr B's funds could've been recovered (as these were spent by the time Chase received notification of fraud). Nor would this be a basis upon which I could ask Chase to refund Mr B's loss.

So, for these reasons I can't fairly and reasonably conclude that Chase didn't respond appropriately to D's notification of fraud, or that it missed an opportunity to do something that would've resulted in the recovery of some or all of Mr B's funds.

Delay in responding to Mr B's complaint

I've also considered whether the £150 compensatory offer made by Chase for the delay in responding to Mr B's complaint is fair and reasonable. Mr B initially wrote to Chase in October 2023, and it provided its response in March 2024. I can see Mr B had to ask for an update, something he shouldn't have needed to do. So, I think £150 is a fair way to compensate him for the delay and inconvenience caused.

Mr B told our service he has only received £100 less banking fees of £2. Chase have confirmed this was an error on their part and have since paid the additional £50 plus £4 to cover the banking fees.

Delay in providing information to our service

Mr B says Chase took over a year to respond to this matter, and evidence was submitted by it well past the deadlines our service had given. He asks why given the elapse of this amount of time have we ruled in Chase's favour. I can see why this would feel unfair, but I'm required to consider all available information and evidence that is available to me before reaching my decision. I can't set aside the evidence which Chase has provided, in the same way that I wouldn't do so if a complainant did before I'd reviewed and reached a decision. And in such circumstances, a delay in providing our service with information doesn't mean I can uphold a complaint and ask Chase to refund the financial loss Mr B has suffered on that sole basis.

I sympathise with Mr B for the situation in which he finds himself and I'm sorry to disappoint him, as I know he feels strongly about this matter. But as I'm not persuaded his loss is as a result of failings by Chase or that the compensation offered for the service issues is unfair, there isn't a fair and reasonable basis upon which I can direct Chase to do more to resolve this complaint.

My provisional decision

For the reasons outlined above, but subject to any further information I receive from either Mr B or J.P. Morgan Europe Limited trading as Chase, I'm not intending to uphold this complaint."

Chase did not respond to my provisional decision. In summary, Mr B shared his disappointment and maintained the outcome was unfair.

So now that both sides have had an opportunity to comment, I can go ahead with 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.

I appreciate Mr B's strength of feeling on Chase's handling of this complaint, but as I've explained in my provisional decision, a delay in providing our service with information doesn't mean I can set that evidence aside or uphold Mr B's complaint and ask Chase to refund the financial loss he has suffered on that basis.

As neither party has put forward any new evidence, or information which changes my mind. I see no reason to depart from the findings I made in my provisional decision.

Again, I'm sorry Mr B has lost money to a scam. But I don't think his loss is as a result of failings by Chase. And I think the compensation for the poor service is fair. So for these reasons, I'm not going to require them to do more to resolve this complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 17 January 2025.

Sonal Matharu
Ombudsman