

## **The complaint**

Mr B, via a representative, has complained that MBNA Limited (“MBNA”) failed to refund the money he lost as part of an investment scam.

## **What happened**

The details of this complaint are well known to both parties, so I will not repeat everything again here. Instead, I will focus on giving the reasons for my decision.

In summary though, Mr B was messaged by a scammer and after some time he struck up a friendship with this person. The scammer persuaded Mr B to invest in a scam investment firm that I will call C.

Mr B then made a number of payments to C from two of his current account providers and MBNA. Mr B says that two payments were made from his two MBNA credit cards as part of the scam. These were a payment to what appears to be an Automotive Repair Company for £9,800 on 11 March 2024 and a money transfer of £4,000 on 17 March 2024 to a current account that he held with a different provider.

The first transaction was refunded by the Automotive Repair Company to Mr B’s current account and the funds were then sent to B via a crypto exchange. The second transaction was also sent from Mr B’s current account to a crypto exchange.

Mr B realised he had been scammed when he was unable to withdraw his “profits” from C without paying additional fees. Mr B asked MBNA to refund the transactions he made from his accounts, as he believes MBNA should have done more to prevent him from being scammed in the first place. MBNA did not agree with this.

One of our investigators looked into this matter and she thought there was no loss in relation to the first transaction as the funds were refunded and that, regardless of this, any intervention from MBNA would not have stopped the scam. She said this because Mr B’s current account providers intervened on a number of occasions and Mr B misled them as to what he was doing. She therefore did not uphold this complaint.

Mr B did not agree with this and therefore his complaint has been passed to me to issue a 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 agree with the conclusions reached by the investigator for the following reasons.

In deciding what's fair and reasonable, I am required to take into account relevant law and regulations, regulators' rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, on what I consider is more likely to have (or would have) happened, in light of the available evidence and the wider circumstances.

In broad terms, the starting position is that MBNA is expected to process payments and withdrawals that a customer authorises it to make.

However, I consider it fair and reasonable that MBNA should:

- have been monitoring accounts and any payments made or received to counter various risks, including 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 firms are generally more familiar with than the average customer;
- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – (as in practice MBNA sometimes does); and
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

In relation to the first payment, as the funds were initially refunded back to Mr B, I think that the chain of causation is broken. So I don't think that MBNA could be held responsible for any subsequent financial loss that Mr B may've incurred in relation to that transaction.

Turning now to the second transaction, even if I were to conclude that MBNA should've done more to intervene on that transaction, I don't think that any intervention from MBNA would have stopped the scam. Let me explain why.

Mr B seems to have been aware that, if he gave accurate answers as to what he was doing, his payment might be stopped. I say this because during the interventions with his current account providers, Mr B repeatedly gave misleading answers. Some examples include Mr B saying that the recent loan he took out was for home improvements, when actually it was for an investment. He confirmed that he was making the payments on his own, when he was actually being advised by a third party. He also said one of the payments was to send funds to his daughter and that nobody had promised him large returns. when neither of those points was true.

I also note that Mr B was warned on a number of occasions, by both of his current account providers, that what he was doing had signs of a scam and they both provided warnings to Mr B setting out some of the features of crypto scams. Despite this Mr B continued to send funds to the scammer.

Ultimately, MBNA was only required to take proportionate steps to try and protect Mr B from financial harm and in this instance, I don't think that this would have stopped the scam. I'm also not persuaded he would've shared anything concerning with MBNA, even if it had questioned him more about what he was doing. So overall I don't think that MBNA could have uncovered or prevented the scam.

I've also thought about whether MBNA could have done more to recover the funds after Mr B reported the fraud.

MBNA are under no obligation to refund the money under the Contingent Reimbursement Model (CRM) Code. This is because MBNA are not part of the code and in any event the transactions were credit card payments.

I also don't think that Section 75 (of the Consumer Credit Act) claim or a chargeback claim would have been successful either. I don't think that a S.75 claim would've succeeded because the first transaction was refunded back to Mr B and the second transaction was to an account in Mr B's own name. This broke the debtor-creditor-supplier chain that needs to exist for a S.75 claim to succeed.

In relation to a chargeback claim, the first payment was already refunded back to Mr B's current account – so there was no money left to recover as Mr B had already recovered it. In terms of the second payment, that was essentially a means to send funds to one of Mr B's current accounts, which is what occurred. It was only when he sent the money on from that account did the loss occur. So there are no grounds to challenge either of the payments.

I appreciate this will likely come as a disappointment to Mr B, and I'm sorry to hear he has been the victim of a cruel scam. However, whilst I have a great deal of sympathy for the situation that Mr B found himself in, I'm not persuaded that MBNA can fairly or reasonably be held liable for his losses in these circumstances.

### **My final decision**

For the reasons given above, 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 12 November 2025.

Charlie Newton  
**Ombudsman**