

## The complaint

Ms B complains Northern Bank Limited trading as Danske Bank is trying to claim £10,000 back from a joint account she's named on.

## What happened

Ms B has an account with Danske Bank with a debit card and has been a customer for approximately 10 years. She says before falling for this scam she had zero experience of investing. She also has a joint account.

Ms B says she paid £15,000 to a merchant selling cryptocurrency having fallen for an investment scam. She paid £5,000 on 24 November 2022 and £10,000 on 2 December 2022. Both payments were made using her debit card.

Ms B says that Danske Bank called her to check the first payment was genuine but other than that asked no other questions. She says the second payment was simply allowed to go through. Ms B says both payments were extremely out of character for her.

Ms B says she subsequently contacted Danske Bank to say she'd fallen victim to a scam and on 4 January 2023 Danske Bank refunded her £15,000. Ms B says that Danske Bank subsequently told her that it wanted £10,000 back. Ms B says that it's trying to take that £10,000 from a joint account she's named on.

Danske Bank looked into Ms B's complaint and issued a final response on 11 May 2023. Danske Bank said that the merchant had accepted the chargeback request that it had made in relation to Ms B's £5,000 payment but had disputed the chargeback request it had made in relation to Ms B's £10,000 payment. And that the merchant had been successful on appeal meaning it told Ms B that it would have to reverse the £10,000 credit it had given her.

Ms B complained to our service saying that Danske Bank shouldn't be allowed to claim the £10,000 back from her.

One of our investigators looked into Ms B's complaint and said that they thought Danske Bank had missed an opportunity to prevent Ms B from making a loss when it spoke to her on 22 November 2022. They said that Ms B wouldn't have sent any money to the merchant if Danske Bank had given her appropriate warnings. Our investigator also thought that Ms B should share responsibility for any losses she made. They didn't think that Danske Bank had acted unfairly when asking Ms B to return the £10,000 to them as Danske Bank had made it clear that this was a temporary credit that could be re-debited if the chargeback was ultimately unsuccessful. As Ms B had received a credit of £983.72 our investigator said that Danske Bank could only fairly request Ms B to return £4,508.14.

Danske Bank didn't agree with our investigator's recommendations. It said that it didn't think it would have made a difference even if it had provided Ms B with a clearer scam warning. As Danske Bank didn't agree, Ms B's complaint was referred to an ombudsman for a decision. Her complaint was, as a result, passed on to me.

## **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.

Danske Bank accepts that a £5,000 payment Ms B attempted to make in November 2022 was unusual when compared to her normal activity. That attempt was made on 22 November 2022 – and was blocked by Danske Bank's systems. Ms B called Danske Bank to get the block removed – I've listened to that call. I agree with our investigator that the agent Ms B spoke to could and should have asked Ms B more about the payment she wanted to make – given that she was open about the fact that she was buying cryptocurrency and had transferred £5,000 into her account twenty minutes earlier in order to make the payment. The agent didn't do so – they simply confirmed that the payment was genuine.

I agree too with our investigator that Ms B would have explained what she was doing – if she'd been asked – and that had she done so Danske Bank would have been able to spot all the hallmarks of a cryptocurrency investment scam. So, I agree that it could have done more to prevent Ms B from making a loss. Had it not been for what happened when Danske Bank carried out a chargeback on Ms B's behalf, Ms B would have lost £14,016.28. In other words, the £15,000 she sent minus the £983.72 credit she received.

In a case like this, when a customer has paid for cryptocurrency and has received cryptocurrency, we wouldn't expect a chargeback to reasonably succeed. That's because, amongst other things, the merchant has provided the service. In this case, however, the merchant allowed one of the chargebacks to go through meaning Ms B got temporary refunds of £15,000, £5,000 of which was made permanent and £10,000 of which was reversed. In other words, Ms B's losses were further reduced to £9,016.28. I agree that Danske Bank should refund half of that loss – namely £4,508.14.

## **Putting things right**

All other things being equal, I would have told Danske Bank to refund £4,508.14 to Ms B together with 8% simple interest from the date of payment to the date of the refund. In other words, to refund the losses it could have prevented for which it is fairly liable. In this case, however, Danske Bank also has a claim against Ms B for £10,000 – a claim that arises out of the same event. Ms B has asked us to say that Danske Bank shouldn't be allowed to claim this £10,000 back. I don't agree, for the reasons I've given, that it is unfair of Danske Bank to do so. Equally, I don't think it would be right to require Danske Bank to refund the losses it could have prevented and say nothing about the £10,000 claim it has against Ms B. I'm, therefore, going to require Danske Bank to refund £4,508.14 to Ms B together with 8% simple interest from the date of payment to the date of the refund but to allow Danske Bank to apply that refund to the £10,000 Ms B owes should it wish to do so. That will, in effect, reduce the amount Danske Bank can claim back from Ms B by around half.

In the event that Ms B accepts this decision, Danske Bank will need to send Ms B a copy of its calculations showing how much refund she's entitled to and how much she still owes. It will then be up to both parties to agree the basis on which the balance Ms B owes is repaid.

### **My final decision**

My final decision is that I'm upholding this complaint and require Northern Bank Limited to refund £4,508.14 to Ms B together with 8% simple interest from the date of payment to the date of the refund. Northern Bank Limited trading can apply this refund to the £10,000 Ms B owes, should it wish to do so. But in the event that it applies the refund to the £10,000 Ms B owes, Northern Bank Limited must send Ms B a copy of its calculations.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 31 July 2024.

Nicolas Atkinson  
**Ombudsman**