

## **The complaint**

Company C is unhappy that Advanced Payment Solutions Limited (APS) wouldn't reimburse the money they lost due to an authorised push payment scam.

## **What happened**

The background to the complaint is well known to both parties and so I won't repeat it at length here.

Briefly, in November 2020, C received an email from one of its suppliers asking for a payment to be made as per the invoice attached. The email requesting payment was received by C's area manager who then forwarded it to their accounts payable department. C says that the accounts department had no reason to question the origin as both were recognised email addresses, the site address referred to was a site that C worked on regularly and the invoice was identical to those previously received. So, they went ahead and paid the invoice. But, unknown to C, the email had been intercepted at some point and payment details altered.

It wasn't until a week later when the actual supplier contacted C for payment, it came to light that C had fallen victim to a fraud. They immediately contacted their bank who in turn contacted APS. Unfortunately, by that time the money had all been withdrawn from the recipient's account.

C would like APS to refund their loss. They feel that APS had not done enough to prevent the fraud. APS said that all proper checks were carried out before the recipient's account was opened. Further, the transactions were in line with how the account had been used previously and so the transactions were of no particular concern and weren't considered as suspicious.

I issued a provisional decision (which forms part of this Decision). In summary I said:

- Prior to the arrival of C's funds, there wasn't anything unusual or out of character in the recipient's account activities for APS to have intervened.
- Once C's funds arrived, they were quickly transferred from the account through multiple transactions.

The first payment that left the account was for £1,500. The payment was a lot higher in value compared to the previous outgoings, but I don't think that in itself ought to have raised a concern to APS, as occasionally higher than usual payments could be made from an account. However, within a minute, another payment was made for the same amount (so another higher than usual payment), to another payee. I think taken together this was unusual activity in relation to that account. And it was on the back of an unusually high incoming payment.

I consider that there was enough going on by this time that APS could and should reasonably have intervened and made additional checks with its customer before it processed the payments.

I cannot now be certain as to what would have happened had APS contacted its customer at that point. So, I will have to consider what more likely would have happened had it looked into this closely, contacted its customer and if they were reachable, asked all the right questions. I think that had APS contacted its customer and asked the appropriate questions including about the mismatch in the payee's name, it is more likely that their customer wouldn't have responded plausibly or at all. This would have prompted further investigation and allowed time for the notification to be received by the sending bank, ultimately preventing these funds being fraudulently used.

I appreciate that APS needed to strike a balance in the extent to which it intervenes in payments, against the risk of unduly inconveniencing or delaying legitimate payment requests. I also acknowledge the main perpetrator here is the fraudster. However, for the reasons explained, I consider that APS could have done more here to help prevent the loss to C, but it failed to do so. Specifically, I consider that it ought to have intervened when the second payment was attempted.

Therefore, it is fair that it refunds the sum lost by C as a result - from that payment onwards. I work that out to be £13,162 (£14,662 less £1,500), less any sum already returned to C. I also consider that 8% simple interest should be added to compensate for C being without funds they otherwise would have had.

- I've considered whether C should bear some responsibility for their loss due to any contributory negligence. But in the circumstances of this complaint, I don't think they should. C was going about its business in the usual way, without knowledge or awareness of the fraud. When they received the intercepted email, there was nothing suspicious about the email and the request itself wasn't out of the ordinary. And they were expecting the request for payment. So, in the circumstances I don't think they acted unreasonably by making the payment.

### **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 see no reason to depart from my provisional decision. I remain of the view that that APS could have done more here to help prevent the loss to C and so it is fair that it refunds the sum as set out in my provisional decision.

In response to my provisional decision APS reiterated that in its view the due diligence carried out by C was inadequate for a business customer. I can understand why it considers so. However, as I said in my provisional decision, C had no knowledge that the email was intercepted, it was expecting the request for payment and there was nothing suspicious about the request. So, in the circumstances I don't think they acted unreasonably by making the payment.

### **My final decision**

I uphold this complaint. In full and final settlement of it, Advanced Payment Solutions Limited should pay £13,162 to C (less any money already returned), together with interest at

8% simple p.a. Interest should be paid from the date C or its bank first raised the fraud claim with APS until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask C to accept or reject my decision before 13 September 2022.

Raj Varadarajan  
**Ombudsman**