

The complaint and what happened

Mr W complains ClearBank Limited (a Tide account) won't reimburse money he lost as a result of a scam. He is being represented in his complaint.

The full details of this complaint are well known to both parties, so I won't repeat them here. Instead, I'll recap the key points and focus on giving reasons for my decision.

- Mr W met two individuals through a well-known online dating site. They persuade him to invest with two different investment companies. During October and November 2020, Mr W invested a total of £7,410 via a crypto-currency site and an electronic money issuer. He was also able to make a £200 withdrawal. So his total loss is £7,210.
- Mr W realised he'd been scammed and contacted Tide. Tide attempted to recover funds but declined to refund him. When sending its file ClearBank offered £50 for any distress and inconvenience in it not contacting some of the recipient banks sooner.
- Our investigator didn't find the payments were so unusual or suspicious such that they ought to have triggered any security measures. But she agreed the £50 compensation was fair for the delays in handling his claim.
- Mr W's representative has asked for an ombudsman's decision. It considers sending over £4,000 over a two-day period to be unusual for Mr W and the payments ought to have been flagged by the bank.

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 would like to reassure the parties that although I have only set out the key points of the complaint, I have read and considered what's been provided. Having done so, I agree with the investigator, for the following reasons:

- Under regulations and in accordance with general banking terms and conditions, a bank should execute a payment instruction without undue delay. The starting position is that liability for an authorised payment rests with the payer, even where they are duped into making payments. There is no dispute that Mr W made the payments, even if he didn't intend to get scammed, and so they are authorised.
- But if ClearBank breaches its duty to protect customers against the risk of fraud and scams, it might be liable for its customers losses.
- I have therefore considered the operation of Mr W's account. I accept the payments made as a result of the scam were higher than some other payments on the account. But that of itself doesn't make them suspicious or something that ought to have flagged. I also accept some of the payments were made in close proximity. But I don't find they were so close such as to arouse suspicions that Mr W might have been falling victim to a fraud or scam. I'm also mindful that the payments were either sent to individuals with references mentioning clothes or products, and some others were sent to an electronic money issuer referencing his own business name – the same name that is on the account the funds were sent from. Mr W regularly made

payments to individuals and other financial institutions. I accept the payments were to new payees. But overall, I'm not persuaded the transactions were so unusual or so uncharacteristic such that I think the bank ought to have intervened and paused payments to question Mr W about them.

- ClearBank has accepted that more should have happened when Mr W first reported the scam to contact the recipient banks to see if any funds could be recovered. That is usually done on a best endeavours basis. It's clear that didn't happen with all of the recipients. It has provided evidence to show that none of the banks concerned have replied to ClearBank about whether any funds would have been available if they had been contacted sooner. And in our experience scammers invariably withdraw ill-gotten gains immediately. ClearBank has offered £50 for not following up that process sooner. In the absence of persuasive evidence ClearBank's delays prevented any recovery from taking place, I find £50 to be a fair reflection of the impact that had.
- I understand Mr W has lost a lot of money as a result of being a victim of a scam. But as I don't find ClearBank ought to have done anything more when executing his payments, I find no basis on which to ask it to reimburse Mr W's losses.

My final decision

For the reasons given, my final decision is that ClearBank Limited has made a fair offer to resolve Mr W's complaint. I require it to pay him £50.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 December 2022.

Claire Hopkins
Ombudsman