

## **The complaint**

Mr M, director of P (a limited company) and Mrs M (P's company secretary) are unhappy Tide Platform Ltd won't reimburse P for the money it lost when Mr M fell victim to a scam.

## **What happened**

Mr M fell victim to a safe account scam. He received a text message, apparently from Tide, asking him to confirm if P had made a payment to a retailer. When Mr M called the phone number in the message so say P had made no such payment, he was told P's account had been compromised and that he needed to move money to a safe account to protect it. Unfortunately, and unknown to him at the time, Mr M was actually speaking with fraudsters.

Mr M spoke to the fraudsters several times over two days, with many of these calls appearing to be from Tide's legitimate phone number. And, believing that he was genuinely dealing with Tide, Mr M ended up making two payments, for £11,847.36 and for £83,149.12, clearing the balance of P's Tide account.

After discussing what had happened with family, Mr M realised he had been the victim of a scam, and Mrs M immediately reported the matter to Tide to see if it could help stop the payments or recover the funds. Tide logged the fraud and contacted the banks the funds had been sent to, to see if any funds remained that could be recovered. Ultimately though, while it was able to recover a small amount from one of the recipient banks, Tide told Mr and Mrs M that it wouldn't be reimbursing P for the payments made from its account.

Unhappy, Mr and Mrs M referred the matter to our service. One of our Investigators looked into the complaint. Overall, they considered that while Mr M had authorised the transfers (albeit as a result of a scam) Tide should have done more to intervene when the second, much larger, payment was made. They felt Tide should have contacted Mr M directly, rather than relying on any written warnings it had provided. It was our Investigator's view that, had Tide done so, it was more likely than not the scam would've unravelled, and part of the loss would've been prevented.

Our Investigator also considered that Mr M – on behalf of P – wasn't partly to blame and shouldn't bear any responsibility for the loss. Our Investigator recommended Tide refund the second payment to P, plus interest.

Mr and Mrs M, on behalf of P, accepted the Investigators findings, but Tide disagreed. It did not consider that either of the payments was unusual enough to have been flagged given the way P usually used its account, and noted that it had provided warnings – that the payee did not match what had been input by Mr M, and via a message asking for a one-time passcode – which Mr M had ignored. It also noted that even though the scam took place over a couple of days Mr M had made no attempt to contact Tide about what was happening through the in-app chat function, which is how he would usually correspond with Tide.

As no agreement could be reached, the case has now been passed to me for 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've reached the same conclusions as our Investigator, and for the same reasons.

It's not disputed that Mr M, on behalf of P, authorised the payments that are in dispute here. So as per the Payment Service Regulations 2017 (which are the relevant regulations in place) that means P is responsible for them. That remains the case even though Mr M was the unfortunate victim of a scam.

Because of this, P is not automatically entitled to a refund. But the regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams.

Taking the above into consideration, I need to decide whether Tide acted fairly and reasonably in its dealings with P, or whether it should have done more than it did.

There was regular activity on P's account for the months in the run up to the scam, and P did regularly make large payments out to third parties. On 5 October 2022 Mr M made the first payment to the scammers of £11,847.36, this was to a new payee and did clear the balance of the account, but given that in the preceding months P had made many payments of a similar size, I don't consider that this particular payment should have flagged as unusual to Tide.

The next day, 6 October 2022, Mr M made another payment to the scammers, after P's account received an inward payment of £83,149.12 that Mr M had been expecting. This whole amount was immediately transferred out, once again this was to a new payee and cleared the balance of the account. This payment was far in excess of any previous payment made out of the account, the highest payment P had made in the previous few months was for £50,000, significantly less. With this in mind, and given the large payment the previous day, and that P's account had twice been completely cleared of its balance in a short period of time, I do not think that this activity, taken as a whole, was usual for P's account. I think the activity was unusual enough that Tide ought to have been alerted to the possibility of financial harm and intervened.

I acknowledge that this is a business account, which are usually operated differently to personal accounts in that they deal with higher payments and new payees more often. However, while keeping this in mind, with this particular business account, I don't think the payment in question was the norm.

Considering the nature of the scam, I think a conversation about what the payment was for would have quickly revealed the scam and prevented the second payment from being made. Mr P doesn't appear to have been given a cover story to use by the scammer, and he already though he was talking to Tide, so if he'd been unable to progress with making that payment until he'd been forced to speak to the real Tide, then I think he'd have been open and honest about what was happening. With this in mind, I think it would be reasonable for Tide to refund the second payment, as I consider that payment could have been prevented.

I've thought about whether P should bear some responsibility for its loss by way of contributory negligence, but I don't think it should. Mr M fell victim to a sophisticated scam, he was contacted on phone numbers that appeared to be genuine Tide numbers. I appreciate that Tide says Mr M didn't try to contact it on the in-app chat, but given that Mr M appears to have been completely convinced that he was already speaking to Tide, I can understand why he didn't feel the need to do so. In the circumstances of the scam – including the real fear that he might lose a significant amount of P's money – I can understand why the fraud went undetected by Mr M.

With the benefit of hindsight, there may have been some 'red flags' (for example the mismatch in the confirmation of payee and the message sent with the one-time passcode) that Mr M could've picked up on, particularly if he'd had more time to think. But the scam took place over a relatively short period of time and in a pressured situation. This is of course a deliberate tactic by the fraudsters to create fear – in the hope it would disrupt Mr M's thinking and make him more compliant. On balance, I'm satisfied that in the circumstances Mr M's actions were not unreasonable.

I have also considered if Tide did enough to try to recover P's money once Mr and Mrs M had told it of the scam, and I'm satisfied from the evidence I've seen that, aside from the small amount already recovered, the funds had already been moved on by the scammers by the time Mr and Mrs M reported the fraud to Tide. So I'm satisfied Tide couldn't have done more to recover P's money.

### **Putting things right**

To resolve this complaint Tide should:

- Refund the second payment – minus any funds already recovered
- Pay 8% simple interest on that amount from 6 October 2022 to the date of settlement.

### **My final decision**

I uphold this complaint. Tide Platform Ltd should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask P and P to accept or reject my decision before 16 November 2023.

Sophie Mitchell  
**Ombudsman**