

## **The complaint**

Mr M, managing partner of P (a partnership) is unhappy Tide Platform Ltd (trading as Tide) 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 message appearing to be from Tide asking him to confirm a payment that was due to come out of P's account. As Mr M did not recognise the payment he called the number included in the message, believing he was then speaking directly with Tide. Mr M says he was told that P's Tide account was at risk and that he needed to move money to other "safe accounts" at Tide to protect it. Unfortunately, and unknown to him at the time, Mr M was actually speaking with fraudsters.

Believing that he was genuinely dealing with Tide, Mr M ended up making nine payments, totalling over £130,000, out of P's Tide account.

Mr M realised he had been the victim of a scam when he returned home later that day and was able to do some research, and immediately reported the matter to Tide to see if it could help stop the payments or recover the funds. Tide logged the fraud, blocked the recipient accounts, and contacted the businesses the funds had ultimately been sent to, to see if any funds remained that could be recovered. Ultimately, Tide was able to recover £23,962.05 from one of the beneficiary accounts (the second account Mr P had made payments to), it later also refunded the remaining funds that had been sent to this account by Mr M as Tide felt it could have done more to prevent those payments. But Tide did not agree to refund any of the funds sent to the first beneficiary account.

Unhappy, Mr 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 given that the payments were unusual. 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 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 remaining losses to P, and that it pay interest on all the amounts refunded from the date of the payments to the date of each refund. They also recommended a payment of £300 for the inconvenience caused to P.

Mr M, on behalf of P, accepted the Investigators findings, but Tide disagreed. It 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 felt that, in the circumstances, at most liability should be split 50/50 between Tide and P. It also explained why it did not feel it was fair for interest to be applied in the way the Investigator had set out. It says the funds would have been returned to Mr M much earlier if he had accepted the refund when it was first offered.

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 authorised the payments that are the subject of this complaint. So as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) 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, most of this activity was relatively small payments, and payments over £2,000 were rare. On 10 January 2023 Mr M made the first payment to the scam, which was for £14,565.87, more than seven times the size of any previous payment. This payment was also to a new payee.

I do not think that this activity 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 may 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 first payment – and then any further payments – from being made. Mr M doesn't appear to have been given a cover story to use by the scammer, and he already thought he was talking to Tide, so if he'd been unable to progress with making a 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 payments that are in dispute here.

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. P fell victim to a sophisticated scam. From what Mr M's said, the scammer contacted him on an existing Tide message thread, and so the message appeared to be from Tide's genuine number. He was also transferring funds to other Tide accounts, rather than to external accounts, and the scammers directed him to information on Tide's legitimate website which appeared to support some of what he was being asked to do. 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 short period of time and in the heat of the moment, in a pressured situation, with Mr M being coached through what was happening by the scammers. 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. I do note what Tide has said about the warning that was sent to Mr M via text – stating that Tide would never call him and ask him to move money – but given that he had called Tide, and was wholly convinced he was speaking to a legitimate member of staff, I can understand why this warning was not effective. 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 M had told it of the scam, and I'm satisfied Tide did act relatively quickly, but was nonetheless only able to recover part of the funds.

I agree with our Investigator that there was some poor service provided here by Tide, particularly regarding the lack of detailed updates provided while its investigation was ongoing. So, I'm satisfied that the £300 recommended by our Investigator for the inconvenience caused to P is reasonable.

Our investigator set out compensation as 8% interest on the lost funds from the date of payment to the date of settlement. Tide have argued that the amount of interest they're being asked to pay is higher because Mr M delayed accepting the refunds it had already offered to him. I can understand why Tide might feel that way. However, I think it could also be argued that Tide did not need to wait for Mr M to accept the offer before refunding the scam payments to his account. I also think it's worth noting that Tide has said itself that it agrees it could have prevented the scam payments made to the second account (the ones that it has already refunded to P) and with that in mind, I think it is reasonable that Tide pay 8% interest on those amounts from the date of the payments until the date they were refunded as, if not for the failings that Tide has identified regarding that second beneficiary account, its arguable these payments would not have been made.

### **Putting things right**

To resolve this complaint Tide should:

- Refund the outstanding payments – totalling £86,743.86
- Pay 8% interest on all the payments made as a result of the scam from 10 January 2023 to the date that each payment was refunded to P.
- Pay P £300

### **My final decision**

I uphold this complaint. Tide Platform Ltd (trading as Tide) 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 to accept or reject my decision before 29 February 2024.

Sophie Mitchell  
**Ombudsman**