

The complaint

Mr V, on behalf of B, complains that Tide Platform Limited ('Tide') hasn't refunded the money his business lost when he fell victim to an authorised push payment ('APP') scam. Mr V's asked Tide to reimburse his business's loss.

While the complaint relates to a business account in the name of Mr V's business, he operates it as a sole trader, rather than a limited company, and it was Mr V who fell victim to the scam. So, for ease, I'll refer to Mr V throughout this decision.

What happened

In October 2023, Mr V received a notification from Tide about a large payment attempt he hadn't made. Whilst reading the in-app message, Mr V received a phone call from a third party ('the scammer') impersonating Tide's fraud department.

The scammer persuaded Mr V to make two faster payments, totalling £9,989.23, to a third party's account. Shortly afterwards, Mr V realised he'd fallen victim to a scam, and he reported the payments to Tide and asked for a refund.

Tide wasn't able to recover any of Mr V's funds from the beneficiary account (the account his funds were sent to). Tide also didn't think it was responsible for Mr V's loss and so it declined his claim for reimbursement.

Unhappy with Tide's response, Mr V made a complaint. In response, Tide said it couldn't have prevented the first scam payment from being made. Tide accepted it could've done more to prevent the second scam payment from being made. However, it thought that it had provided Mr V with relevant warnings prior to the payment being made and as a result, it thought responsibility for the loss from the second scam payment should be shared equally between Tide and Mr V.

Mr V didn't agree that was a fair way to resolve his complaint and so he asked this service for help. Our Investigator felt Tide should've done more to protect Mr V in the circumstances and, if it had made enquiries before processing the first scam payment, Mr V's loss could've been prevented. To put things right, our Investigator recommended Tide reimburse Mr V £7,992.23 (the total loss of £9,989.23 less the £1,997 Tide had already offered), along with 8% simple interest from the date of the disputed payments until the date of settlement.

Mr V accepted the Investigator's opinion, but Tide didn't agree. It said it had shown Mr V warnings when making the payments, which should've made him realise he was being scammed. As a result, it didn't think it needed to reimburse more than 50% of the second scam payment.

Mr V has since confirmed that Tide hasn't reimbursed any of the money he lost to the scam, and he remains £9,989.23 out of pocket.

As an agreement couldn't be reached, the complaint has been referred to me to decide.

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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations (in this case, the 2017 regulations) and the terms and conditions of the customer's account.

It's not in dispute here that Mr V made the scam payments himself and authorised Tide to send the funds. So, under the Payment Services Regulations, the starting position here is that Mr V is responsible for the payments (and the subsequent loss) despite the payments being made as the result of a scam.

However, that isn't the end of the story. Good industry practice required Tide to be on the lookout for account activity or payments that were unusual or out of character to the extent that they might indicate a fraud risk. On spotting such a payment, I'd expect it to take steps to warn the customer about the risks of proceeding.

I've reviewed Mr V's account statements for the 12-month period prior to the scam. During that time, there was a lot of account activity, including a large number of faster payments to third parties. However, the majority of those faster payments were significantly less than the value of the first scam payment (£5,995.14) and made to existing payees. So, as the first scam payment was for a larger than usual amount and to a new payee, I think it was out of character.

Not only was the first scam payment out of character, but Tide would've known that Mr V had entered his own business's name as the payee and received a "no match" confirmation of payee result.

I'm satisfied that a larger than usual payment, going to a new payee, with a "no match" confirmation of payee result (to a payee name matching the account holder's name) demonstrated a heightened risk that Mr V might be subject to financial harm. As a result, I think Tide reasonably ought to have carried out some additional checks before approving the payment.

In the circumstances, I think it would've been appropriate for Tide to have called Mr V and spoken to him about the payment he was attempting to make. Had this happened, I have little reason to doubt that Mr V would've been open and honest when answering questions about the payment purpose and I think he would've most likely disclosed that he'd been called by (who he thought was) Tide's fraud department and told to move his funds to a new account to keep them safe. Armed with this information, I think Tide would've known Mr V was falling victim to an impersonation scam and it could've provided education and warnings which would most likely have resulted in Mr V deciding not to go ahead with either scam payment.

The issue I now need to decide is whether Mr V should be held partly responsible for the loss he's suffered – i.e., was Mr V contributorily negligent?

Mr V's explained that the scammer sounded very professional and knew personal information about him, such as his:

- name;
- current address;
- previous address; and
- partner's middle name (which Mr V had used as a memorable word).

The scammer also knew about the unauthorised payment attempt that Tide had alerted Mr V to. Furthermore, the scammer told Mr V to check the phone number they were calling from, which appeared to corroborate the scammer was who they said they were.

Mr V was told that his account had been compromised and that he would need to act quickly to secure his funds. First, Mr V was told to cancel the unauthorised payment attempt, which helped build Mr V's confidence that the scammer was trying to assist him. Then, Mr V was told to move his funds to a new account to prevent them being stolen.

The scammer sent Mr V a text message with his "new" account details. The text message appeared in a genuine thread of messages from Tide, which further persuaded Mr V that the call was genuine.

Mr V's account details had been compromised and so I think he would've been in a state of panic when the scammer called him. As Tide had flagged the unauthorised payment attempt from the account, I think it's reasonable for Mr V to have thought it was plausible that Tide would've also called him to question the payment. So, I wouldn't have reasonably expected Mr V to have been concerned or suspicious that the caller wasn't calling from Tide, especially when Tide's genuine phone number had been spoofed and the caller knew personal information about him.

Mr V received a "no match" confirmation of payee result when he created the new payee. Tide's electronic records indicate Mr V saw this warning multiple times, suggesting he attempted to set the payee up several times and had concerns that the payee name didn't match his own business's name.

The "no match" confirmation of payee warning told Mr V that the payee name didn't match what he'd entered (his business's name in this case). He was advised to contact the recipient via a trusted channel to verify the account details if he still wanted to proceed.

Mr V thought he was already on the phone to Tide and he did question the scammer about this. The scammer said it was normal for the payee name not to match because the new account had been set up to protect him as his existing account had been compromised. So, by checking with the scammer about the "no match" confirmation of payee result, Mr V reasonably thought he'd followed the warning.

Mr V was then shown a further warning when making the scam payments, which said:

"Could someone be trying to scam you?"

If either of the following apply, do not proceed with this transaction and contact us immediately:

- *You've received a call claiming to be from Tide, HMRC or any other financial or governmental institution*
- *You've been pressurised by someone to quickly make this transaction"*

I can appreciate why Tide thinks the scam warning, combined with the “no match” confirmation of payee result is sufficient to demonstrate why Mr V should be held, at least partly, responsible for the loss he’s suffered. However, I’m not persuaded that moving past these warnings is enough to say Mr V has been contributorily negligent.

At the time he saw the scam warning, Mr V reasonably believed he was already speaking with Tide (not just someone “*claiming*” to be calling from Tide) and that the scammer was assisting him in keeping his funds safe. As the scammer had taken several steps to persuade Mr V that the call was genuine, I can see no rational explanation for why he should’ve felt it necessary to proactively call Tide, or refused to comply with the scammer’s instructions.

This was a highly sophisticated scam and would’ve been very believable to Mr V at the time. The scammer was able to guide Mr V through the payment process and provided plausible answers to his questions when Mr V had concerns.

Overall, I’m not satisfied that Tide’s written warnings were sufficient in the circumstances to protect Mr V from fraud. I’m also not persuaded that Mr V (by taking the scammer’s advice and moving past the warnings) has been contributorily negligent or that he should share responsibility for the loss he’s suffered.

Putting things right

For the reasons explained, I don’t think Tide did enough to protect Mr V from fraud, nor do I think Mr V ought to share responsibility with Tide for the loss he suffered from either payment he made as part of this scam. To resolve the complaint, Tide should:

- refund Mr V’s loss of £9,989.23 in full; and
- pay 8% simple interest per year on that amount, calculated from the date of payment until the date of settlement.

My final decision

My final decision is that I uphold this complaint against Tide Platform Limited.

Under the rules of the Financial Ombudsman Service, I’m required to ask B to accept or reject my decision before 27 December 2024.

Liam Davies
Ombudsman