

## The complaint

Miss R, a director of S, has brought S's complaint to the Financial Ombudsman with the assistance of a professional representative. However, for ease, I will mostly refer to Miss R throughout my decision.

Miss R is unhappy ClearBank Limited won't refund money she lost as part of a scam.

## What happened

S holds a business account - which is provided by ClearBank Limited - with Tide Platform Limited.

The background of this complaint is well known to all parties, so I won't repeat everything here. However, in summary, Miss R received a call from a scammer stating they were calling from Tide. The scammer explained a direct debit for a gym membership had been approved on S's account. Miss R confirmed S did not authorise this and so became concerned that someone was attempting to access S's account without permission. The scammer told Miss R they would freeze their Tide account and they would need to move their funds into safe accounts.

Miss R said the scammer knew details such as their business name, personal name and address. She also received a text message from a number that matched the contact number on the back of the Tide debit card, which further convinced Miss R the call from the scammer was genuine and S's Tide account was under threat.

The scammer explained to Miss R the funds in S's Tide account would firstly need to be moved into other Tide accounts, and from there, they would move the funds to a new account in S's name. However, the account details the scammer provided Miss R were for accounts with external banking providers (which were in the control of the scammers). The scammer also explained it was safer to split the payments, so they asked Miss R to send some of the funds to an account that they said was previously used by another company that was now being used as a recycled Tide account to internally safeguard customers funds from fraudsters. Miss R thought the situation was urgent and carried out the scammer's instructions.

Miss R made the following payments to external accounts as part of the scam:

Date	Transaction Type	Payee	Amount
7 March 2024	Faster payment	1	£8,655
7 March 2024	Faster payment	2	£11,400
7 March 2024	Faster payment	1	£5,200
<b>Total</b>			<b>£25,255</b>

Miss R realised she had been a victim of a scam when she tried to call the number back to set up the new Tide account for S, as advised by the scammer, and received no response. And when she contacted Tide through their app, Miss R was told they didn't have anyone

with the name she was given by the scammer that claimed to work in Tide's fraud department.

Tide agreed to partially uphold Miss R's complaint and refund 50% of Payment 2 and 3 along with 8% simple interest per annum, which totalled £8,403.41.

Tide didn't agree to refund Payment 1 as they said the payment was in line with S's general spending habits and transaction history and didn't warrant intervention. They also said Miss R received a few warning messages which should have raised suspicions. Tide accepted though that they could have done more to prevent the loss for Payments 2 and 3. But as they considered Miss R could have also done more to prevent the scam, they thought a 50% reduction in the refund given was fair.

The complaint was referred to our service. Our Investigator didn't uphold it. In short, he said, Miss R should share equal liability for S's loss for Payments 2 and 3. He went on to say the warnings Tide provided should have caused Miss R to be concerned about the nature of the call she received from the scammer, as well as other red flags - including being contacted via an instant messenger app and being asked to transfer funds to accounts not in S's name. So, he thought what Tide refunded was fair.

Miss R didn't agree. In summary, she said:

- Since the introduction of the Financial Conduct Authority (FCA) Consumer Duty regulation, banks need to avoid foreseeable harm to their customers, requiring banks to be proactive when delivering good customer outcomes. The failure of Tide to effectively intervene demonstrates a dereliction of their duty to prevent foreseeable harm to her under the Consumer Duty.
- The automated warning Tide provided wasn't a sufficient response, nor was it proportionate to the risk the payment(s) presented. And the relevant part of the warning was *"tucked away at the bottom of the message."*
- Banks are using instant messenger apps on a regular basis to communicate with their customers, so receiving contact from the scammer via an instant messenger app wouldn't have indicated the calls were linked to a scam.
- The 50% reduction should not be applied as the intervention from Tide was not effective. And the emotionally heightened state of Miss R during the calls with the scammer should result in a full refund being given.

As no agreement could be reached, the matter has been passed 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.

I'm sorry Miss R has been the victim of a scam. But while I appreciate this has had a significant impact on her, I think Tide have acted fairly by refunding the amount they have.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. Here, it isn't disputed that Miss R knowingly made the payments, albeit under the instructions of the scammer and so, I'm satisfied she authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of

the account, Tide are expected to process the payments, and Miss R is presumed liable for the loss in the first instance. But that's not the end of the story.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider that Tide should:

- have been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions are generally more familiar with than the average customer.
- in some circumstances, irrespective of the payment channel used, have taken additional steps or made additional checks before processing a payment, or in some cases declined to make a payment altogether, to help protect its customers from the possibility of financial harm.

Although Payment 1 was being made to a new payee, which can pose an increased risk of potential fraud, I don't think the payment was unusual or suspicious enough to have expected Tide to have considered Miss R was at a significant risk of financial harm – thereby prompting Tide to carry out additional checks before processing the payment. This is because Miss R had previously made transactions of a similar amount. It's also not uncommon for a business customer to send higher value payments at times. I also don't think there were any other obvious red flags regarding the payment that Tide ought to have identified at the time. So, I agree with our Investigator that I wouldn't have expected Tide to have been concerned that Miss R was at risk of financial harm from fraud when Payment 1 was made.

In response to Miss R's point about the Consumer Duty regulations, it does require the bank to take steps to protect customers from foreseeable harm. However, Tide have already accepted it missed an opportunity to do so from Payment 2 onwards, and I agree. So, while Miss R has argued Tide ought to have done more to protect her from the scam, I don't consider it necessary to discuss this further. Instead, my decision will focus mostly on whether I consider Miss R contributed to S's loss and should therefore bear some responsibility for it by way of contributory negligence (which might justify a reduction in compensation). I'll explain why I think she should.

When considering whether the actions of Miss R has contributed to the loss, I must consider whether her actions showed a lack of care that goes beyond what we would expect from a reasonable person. I must also be satisfied that the lack of care directly contributed to S's losses.

Here, I have considered that there were sophisticated aspects to this scam – including, as Miss R has mentioned, the scammer knowing details of S's bank account(s), what the balances were and other personal details - such as business name, personal name and address. I also acknowledge that Miss R would've understandably been concerned about S's money being at risk of being lost.

However, when Miss R attempted to make the payments, Tide provided warnings, which I think should have raised concerns with her. When Miss R entered the payment details, Tide provided Miss R with a warning to say the account it was sending funds to didn't match the details entered, and more specifically that the name was incorrect. Miss R had also been told the funds would be going into two separate accounts, one a personal account for someone who worked within Tide's fraud department and one a recycled Tide account, which I think should've been seen as highly unusual. I think Miss R should have questioned why the payment details didn't match the bank's records and also the legitimacy of what she

was being told regarding where the payments needed to be made – specifically, why the payments couldn't be made directly into a new account in S's name, or why it was necessary for the payments to go to two separate accounts. Tide have also provided us with a warning message Miss R would have seen when making the payments, which included the following:

*"Stop and check*

***Told to make the payment immediately?***

- *Scammers use pressure on the phone*
- *Legitimate callers always give you time to cancel now and check*

***Caller claiming to be from Tide?***

- *They should have sent you an in-app message to verify their identity*
- *Legitimate phone numbers can be spoofed by scammers*
- *Tide will **never** ask you to move your money"*

The above message was particularly relevant to the circumstances of the scam, as the scammer was claiming to be calling from Tide and telling Miss R she had to urgently move S's money to other accounts.

I consider the warning was clear and that the relevant message wasn't tucked away at the bottom of the warning as Miss R has suggested. Instead, it was prominent and clearly highlighted the common features of a safe account scam. So, I think it would've been reasonable for Miss R to have seen and digested this message. If she had done so, the scam could have been prevented. Based on the above I also feel Miss R ought to have suspected that the call may not have been genuine and I would've expected her to have taken greater caution before proceeding. This could have included cancelling the payments and contacting Tide directly via the app. Again, if Miss R had done this, then I consider she would've most likely uncovered that she was being scammed - thereby preventing S's losses.

I therefore consider Miss R should take some responsibility for S's loss too. I've concluded, on balance, that it would be fair to reduce the amount Tide pays S because of its role in what happened. I think a fair deduction here is 50%.

I've considered whether, on being alerted to the scam, Tide could reasonably have done anything more to recover S's losses, but I don't think they could. The only possible option for recovery here, given the payments were made by faster payment, would have been for Tide to have contacted the beneficiary banks, which I can see they did when the scam was reported. I've also contacted the beneficiary banks, and they've evidenced that the funds were removed swiftly after it was received, which is normally what we see in cases like this. This meant S's funds weren't available for Tide to recover.

I have a great deal of sympathy for Miss R and the loss S has suffered. And I haven't made this decision lightly, but for the reasons given I wouldn't be asking Tide to provide S with any further refund.

**My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 25 September 2025.

Israr Ahmed  
**Ombudsman**