

The complaint

Mr L, a director of L (a limited company), complains that Tide Platform Ltd won't reimburse L for the money it lost when he fell victim to a scam.

What happened

L had an account with Tide which has since been closed.

In February 2023 Mr L says he received a call, apparently from Tide, saying that there had been fraudulent activity on L's account and that he needed to move the funds in it to a new "safe account". Mr L says he checked the number he'd been called from and it matched Tide's number, and that the person he spoke to knew information about him and recent transactions on the account. He believed the call was genuine as a result, and he was scared too. He says he made two payments – of £50,000 and £25,000 – as a result. He says he subsequently discovered that he'd been scammed and contacted Tide.

Tide looked into Mr L's request for a refund. Having done so, it said it couldn't help. Mr L was unhappy with Tide's response, complained about this and then complained to us.

One of our investigators looked into L's complaint and said that Tide should have done more to intervene as the £50,000 payment was unusual given the amount involved when compared to previous usage and the fact that it was to a new beneficiary. So, they recommended that Tide refund both payments together with 8% interest from the date of payment to the date of settlement.

Tide disagreed with our investigator's recommendations saying that the payment wasn't unusual and noted that Mr L had ignored the fact that the payee didn't match and a warning on the one-time passcode sent prior to the first payment going out. Following further exchanges with our investigator, Tide accepted that it could and should have done more, but said Mr L should share responsibility for the loss. So, it offered a 50% refund. As Mr L didn't accept, and our investigator thought that Tide should refund both payments in full, L's complaint was referred to an ombudsman for a decision. The complaint was passed to me.

L complained about a number of other transfers which our investigator didn't think should be refunded as they appeared to be genuine payments. Those payments no longer appear to be disputed – and I don't disagree with our investigator either – so I'm not going to say any more about them. Instead, I'm going to focus on the two payments Mr L made as a result of what everyone accepts was a scam.

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.

The majority of the facts in this complaint aren't in dispute. Mr L authorised both payments on behalf of L – albeit as a result of being scammed – which means L is responsible for them under the Payment Services Regulations 2017. Because of this, L 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.

Tide now accepts that it could and should have done more in order to act fairly and reasonably in its dealings with L. It accepts, for example, that the first payment of £50,000 was sufficiently unusual for it to have intervened. It also accepts that it missed an opportunity to prevent loss to L. But it says that L should bear some responsibility too, primarily because when Mr L tried to make the first payment he was notified – via confirmation of payee – that the details he'd put in were no match. In addition, he was warned that this could be a scam in the one-time passcode that he was sent to authenticate the payment.

In this case, I'm satisfied that Mr L fell victim to a sophisticated scam, he was contacted on phone numbers that appeared to be genuine Tide numbers. In the circumstances of the scam – including the real fear that he might lose a significant amount of L's money – I can understand why the fraud went undetected by Mr L. 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 L 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 L's thinking and make him more compliant. On balance, I'm satisfied that in the circumstances Mr L's actions were not unreasonable.

Putting things right

Given the above, I agree that Tide ought to refund both payments as it missed an opportunity to prevent loss to L. I also agree that it wouldn't be fair to make any deduction.

My final decision

My final decision is that I'm upholding this complaint and requiring Tide Platform Ltd to refund both payments in full – minus any funds already recovered – plus 8% simple interest from the date of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask L to accept or reject my decision before 9 January 2024.

Nicolas Atkinson
Ombudsman