

The complaint

IW, a limited company, complains that TIDE PLATFORM LTD did not refund £6,947.59 that it lost as part of a scam.

What happened

Both parties are aware of the circumstances of the complaint, so I won't repeat them again in detail here. In summary, IW was a victim of a safe account scam in which it transferred £6,947.59 to an account in the control of a scammer. When IW realised shortly afterwards, it made TIDE aware, however they were only able to recover £19.28 and they didn't agree to refund IW with the remaining.

IW referred the complaint to our service and our Investigator did not feel the transaction was so unusual that TIDE should have flagged it prior to processing it. IW disagreed so the complaint was passed to me for a decision. I issued a provisional decision in which I said:

Broadly speaking, the starting position in law is that an account provider is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the account. And a customer will then be responsible for the transactions that they have authorised.

Both parties agree that IW authorised the payment of £6,947.59. Because of this, while I recognise that IW didn't intend for the money to go to scammers, the starting position in law is that TIDE was obliged to follow IW's instruction and process the payment. So, IW is not automatically entitled to a refund.

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. So, I've also thought about whether TIDE did enough to try to keep IW's account safe.

I've looked over IW's statements and considered the payment in comparison to its normal account activity. The payment itself was for just under £7,000, which is not an insignificant amount of money, and I can see that the payment was higher than the typical activity on the account. Although I don't think this on its own would be enough to say TIDE should have intervened, and I appreciate TIDE has said IW made a payment of around £4,000 but that was nine months prior (which was itself a relative anomaly on the account). In addition, I've noted that the balance of the account was brought to nil as the payment was for the precise amount in the account, and it went to a new payee. I do not think that this activity, taken as a whole, was usual for IW'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, I have to assess each case on its individual merits and

in doing so, assess the account activity on each individual case subjectively. And 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 payment from being made. With this in mind, I think it would be reasonable for TIDE to refund the £6,947.59, minus any funds that have been recovered and returned to IW and add 8% simple interest from the date of the loss to the date of settlement.

I've thought about whether IW should bear some responsibility for this loss by way of contributory negligence (which might justify a reduction in compensation). However, in this case, I don't think this would be fair. On balance, I don't think IW was careless in this case, but simply tricked by resourceful and clever scammers who had managed to spoof TIDE's genuine telephone number.

I appreciate TIDE's comments that it provided a warning within the text containing the one-time passcode for the transfer. This said they would never ask IW to move funds. However, IW does not recall reading that section of the text which is understandable considering it was reasonably convinced he it had been dealing with TIDE and was expecting to receive a text about the payment. So, once it saw the one-time passcode it is understandable that it stopped reading, especially because it felt the issue was time-sensitive as its account was at risk. So, whilst there may be cases where a reduction in compensation for contributory negligence is appropriate, I'm satisfied this isn't one of them.

IW responded accepting the findings in my provisional decision.

TIDE responded and did not agree. In summary they said the following:

- IW had been a customer of TIDE for some time so should have been aware that any communication normally occurs in-app and not via text.
- It should be common knowledge that a banking provider will never instruct its customers on how to make payments in any capacity.
- The account details IW was provided with did not match a TIDE account.
- IW would have been provided with a warning that the account name did not match the one he input.
- IW would have been provided with a warning when the One Time Passcode text was sent to it about sending money to other accounts.

As a result, they felt a 50% reduction in the refund should be applied to take into account IW's contributory negligence.

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'd like to thank TIDE for taking the time to respond in detail to my provisional decision. I've considered their additional comments put forward, some of which had already been considered in my provisional decision.

Having done so, I still think that TIDE should provide a full refund to IW, with no deduction for contributory negligence in this case. As set out in my provisional decision, I don't think IW was careless in this case and instead it was tricked by a sophisticated scammer who had

managed to spoof TIDE's genuine phone number. And I think this would be particularly convincing, even after taking into account IW's prior knowledge of TIDE's systems and how they work.

As I think it was reasonable that IW believed it was genuinely dealing with TIDE when making the transfer, I think it was also reasonable that it continued to make the transfer following the confirmation of payee warning. In addition, scammer had convinced IW that its account was genuinely at risk and that it needed to act quickly to transfer the funds. So I think it was understandable that it continued with the transfer despite the confirmation of payee warning.

I appreciate TIDE's comment that it should be common knowledge that a banking provider would not instruct its customers to make payments, however I don't agree this is the case. On balance, I think the scammer convinced IW that they were TIDE by spoofing the genuine phone number, which was particularly convincing. And with no reason to doubt this, I think it was reasonable that IW followed their instruction as it genuinely believed its account was at risk. With this in mind, I think TIDE should refund IW the £6,947.59, minus any funds recovered, plus 8% simple interest from the date of the loss to the date of payment.

My final decision

I now direct TIDE PLATFORM LTD to refund IW the £6,947.59, minus any funds recovered, plus 8% simple interest from the date of the loss to the date of payment.

If TIDE PLATFORM LTD considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell IW how much it's taken off. It should also give IW a tax deduction certificate if it asks for one, so it can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask IW to accept or reject my decision before 24 November 2023.

Rebecca Norris
Ombudsman