



Case study: Banking

FAILURE TO IDENTIFY A FRAUD INVOLVING AN AUTHORISED PUSH PAYMENT (APP) INSTRUCTION

Themes: inadequate systems and procedures; authorised push payment (APP) fraud; bank reluctance to compensate.

This complaint related to an authorised push payment (APP) fraud and the reluctance of the bank to accept full responsibility for the customer's losses due to the fraud.

In January 2018 Mr A had arranged to buy his sister's house and he wrote a cheque to his solicitor for the purchase. The bank returned the cheque because it had not been correctly completed. Mr A was then advised by the bank to make an inter-bank transfer to complete the house purchase. Several weeks later Mr A visited the bank requesting a payment to be sent for £180,852 to his solicitor's account. Mr A used his iPad to show the clerk an email which contained what he believed to be the solicitor's banking details. The bank asked no questions and approved the payment. Mr A contacted the bank a few weeks later after his solicitor had told him that no payment had been received. This was when it was discovered that the transfer had been made to a fraudster who had hacked his email account, impersonated his solicitor, and instructed him to send the money to their fraudulent account.

Mr A immediately reported the matter to the police and the bank who could only recover £1,039 from the fraudulent account. Mr A complained to the bank on the basis that they knew about his intention to buy his sister's house and that he was sending a cheque for this purchase. Mr A believed that if he had been contacted about the incorrectly completed cheque instead of it being returned, the fraud would have been prevented. Mr A also complained that the bank had subsequently advised him to make an inter-bank transfer, something he was not familiar with, and they had not asked any questions or noticed that the beneficiary account was at a bank which was a very long way from where his solicitor was based. Mr A felt that that should have alerted the bank that something was wrong.

The bank stated that the original cheque was not completed correctly and that is why it had been returned unpaid. The bank also told Mr A they had no way of knowing the beneficiary account was fraudulent or that his solicitor did not have an account at that bank. The bank confirmed that once they were aware of the fraud, they immediately attempted to retrieve the payment.

CIFO noted that the bank was fully aware of the purpose of the payment and the circumstances under which the payment details were obtained. The bank objected to this stating that they were not aware of the change to the beneficiary details and that they believed they had acted correctly.

CIFO found it fair and reasonable that the bank should have recommended to Mr A that he check the payment details with his solicitor due to the high value of the transaction, the fact that the payment details had been sent by email, and due to Mr A's lack of familiarity with this payment method. CIFO also noted that the bank should have been aware of this type of fraud and should have had due care and regard for their customers, to guard them against financial crime.

CIFO therefore upheld the complaint and given CIFO's £150,000 binding award limit, recommended that the bank pay a total of £218,637.35, £179,812.67 for the unrecovered funds plus £38,824.68 of interest calculated as 8% from the date the fraudulent payment was made.