



Case study: Banking

AUTHORISED PUSH PAYMENT (APP) TRANSFER TO FRAUDSTERS

Themes: authorised push payment (APP) fraud; inadequate customer service; discretionary payment.

This complaint related to an authorised push payment (APP) fraud and the bank's refusal to refund the customer's losses in full due to the fraud.

In June 2019 Mr L made an inter-bank payment of £5,000 to a company account to buy a boat. Unbeknown to Mr L, his emails with the person selling the boat had been intercepted by a fraudster who had provided him with fraudulent bank account details for his payment. When the boat did not arrive as agreed, Mr L realised he had been defrauded and approached the bank to request a refund. The bank was not able to retrieve Mr L's payment but did make a payment of £2,500 to Mr L on a discretionary basis. The bank also offered Mr L £250 for the distress and inconvenience he had experienced because of the way it had initially dealt with his complaint. Mr L did not accept that offer and he felt the remaining lost funds of £2,500 should also be refunded.

In July 2019, the bank provided Mr L with a final response to his complaint stating that there was nothing to suggest the payment Mr L had requested was fraudulent. He had made the payment himself using online banking and the amount was neither uncharacteristically large nor unusual given his usual transactions. There was therefore no reasonable expectation for the bank to have raised any questions with Mr L about it. The bank believed it had acted in accordance with their policies and procedures but, as a gesture of goodwill, they had provided a discretionary payment of £2,500 towards Mr L's loss. The bank emphasised that this payment was not an admission of fault and told Mr L that they were not able to reimburse any further funds. Mr L disagreed with the bank's decision and brought his complaint to CIFO.

CIFO noted the expectations of banks in these circumstances, both in the Channel Islands and the UK, have evolved over time. While the Contingent Reimbursement Model Code (CRM Code) for Authorised Push Payment Scams in the UK has no equivalent in the Channel Islands, there are still general requirements set out in local regulation that establish a similar expectation for banks to protect their customers from fraud. In this case, CIFO found that the bank had acted in accordance with their policies and procedures, that their policies and procedures were objectively reasonable, and that there was no reasonable basis to suggest the bank should have been alerted to Mr L's online transaction and queried it before it was processed in accordance with his instructions. The transaction was not unusual given his normal activity.

CIFO noted the £2,500 discretionary payment made to Mr L and concluded that a further £2,500 reimbursement would not be fair or reasonable in the circumstances. CIFO also noted that the bank had already offered additional compensation of £250 for the distress and inconvenience Mr L had

experienced during the complaint process. CIFO felt this to be a fair and reasonable offer. CIFO therefore did not uphold the complaint seeking additional compensation.