Case study: Banking

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

Themes: inadequate systems and procedures; authorised push payment fraud; investigation mishandling; inadequate communications; complainant contributory action.

This complaint related to an authorised push payment fraud and the failure by a bank to identify and warn a customer about the possibility of an investment fraud.

Miss T was interested in an investment opportunity advertised in a national newspaper, which has since been identified as fraudulent. Miss T decided to invest and, in 2019, made four payments totalling £142,379. Several months later, Miss T did not receive the expected half year investment bonus and she became suspicious that she had been a victim of fraud. Miss T contacted the bank who were able to retrieve only £2,379 of her total payments.

Miss T asked the bank to reimburse the remaining £140,000 of the payments she had made but they declined to do so. She then complained to the bank, because she held them accountable for not having contacted her before she had authorised the four payments which were, for her, both large and unusual. Miss T believed that had the bank contacted her prior to these transactions being finalised, as they had done for other types of payments before, this would have prevented the fraud.

The bank, however, believed that they were under no obligation to do so because – unlike the earlier payments Miss T had referred to – they had been correctly authorised by the customer. The bank had followed their authorisation processes and procedures when Miss T had visited a branch to make the transactions, and they had provided a call-back service from their payments team to confirm the payments. The bank had also contacted Miss T several weeks after the last payment had been made to let her know that they had received adverse information from the bank to which the payments had been made who were now suspicious of the beneficiary. But Miss T confirmed that she was happy with the payments and declined to tell the bank what they had been for. The bank initially offered Miss T £500 in compensation for their fraud team's inadequate communications, subsequently increased to £1,000. Miss T declined the revised offer and brought her complaint to CIFO.

CIFO investigated and felt that the bank should have systems in place to guard against involvement in fraud, including being sufficiently aware of the indicators of fraud and bringing them to the attention of their customers before they make high value or unusual payments. However, CIFO concluded – on the balance of probabilities – that even if the bank had highlighted these transactions to Miss T as potentially fraudulent, she would still have asked the bank to continue with them believing the 'investment' to be sound. CIFO nevertheless upheld the aspect of the complaint relating to investigation mishandling and inadequate communications and endorsed the bank's offer to pay compensation of £1,000 for the inconvenience Miss T had experienced. CIFO did not consider that the bank should be held liable for the unrecovered amount of £140,000.