



Case study: Banking

CIFO UNABLE TO INVESTIGATE FRAUD COMPLAINTS DUE TO AN INELIGIBLE COMPLAINANT

Themes: micro-enterprise definition; ineligible complainant; fraud; out-of-mandate.

This complaint related to a bank's inability to refund several fraudulent payments that were made from a complainant's four connected company bank accounts.

In February 2024, Mr V received a phone call from someone purporting to be from the bank. During this call, it appears that Mr V provided personal bank details regarding four of his company bank accounts which allowed the caller to gain access to them. Subsequently, several large payments were made from Mr V's company bank accounts without his knowledge, totalling approximately £260,000. It later transpired that Mr V had been a victim of fraud, and he contacted his bank. Mr V's bank was able to reverse one of the payments and recover some of the funds with the cooperation of the beneficiary bank, but Mr V's bank was only able to recover approximately £60,000. Mr V's bank instructed him to submit a fraud claim.

Mr V made a complaint to his bank as he had not received an update regarding his fraud claim within the bank's stated timeframe for response. Mr V's bank responded to Mr V's complaint by stating that they had been entitled to act in accordance with the payment instructions received, as to operate payments from them they required genuine security keys and online banking security details that were only available to Mr V. However, Mr V's bank acknowledged that they were partially responsible when they neglected to intervene with one of the instructed payments that was approved after Mr V had submitted a fraud claim. For this error, Mr V's bank offered to compensate Mr V the value of that transaction, approximately £30,000. Mr V rejected the bank's offer and referred his complaint to CIFO.

CIFO initially reviewed the complaint as falling within CIFO's mandate as the complainant had completed four separate complaint forms, one for each of his companies. CIFO is only able to review complaints if they are received from: an individual consumer, a Channel Islands charity with annual income under £2 million, or a micro-enterprise. CIFO's definition of a micro-enterprise is based upon the European Commission's Small and Medium-Sized Enterprises user guide.

CIFO noted that Mr V had a dominant influence over the companies which were all engaged in similar market activities. CIFO regarded the companies as one 'linked enterprise'. CIFO requested additional information from Mr V about each company's annual turnover and staff headcount to determine whether the linked enterprise would fit within the EU definition of a micro-enterprise. It turned out that all four companies' combined attributes were over the threshold for a micro-enterprise, meaning Mr V's linked enterprise would be considered by CIFO to be an ineligible complainant under our law. The complaint fell outside of CIFO's mandate to review.