

# Mistaken payments

**7 August 2017**

Mistakes happen from time to time, no matter how much care we take. Two transposed numbers on a deposit slip or a moment of inattention while doing internet banking and unwittingly your money has gone to the wrong person. The question is: what can you do to get your money back?

It goes without saying that you need to take care when entering and giving out account numbers. They are a crucial piece of information because transactions are processed by account number. Banks will often ask for an account name as well as account number, but their systems don't check that they match.

## **When a payment goes to the wrong account**

Contact your bank as soon as possible after realising your mistake. The sooner you do this, the better your chance of recovering your money. If your money went to an invalid account, it will usually bounce back into your account.

Retrieving a mistaken payment to a valid account can be more difficult. As a general rule, banks can reverse a payment made in error only with the consent of the person who received it. Your bank and the recipient's bank will need to co-operate to try to recover the payment. This usually involves the recipient's bank contacting the account holder to ask his or her permission to reverse the transaction.

If the recipient refuses, your only option is to take up the matter directly yourself. However, the bank's responsibility to protect the privacy of the recipient's contact details may prove an initial stumbling block. You may wish to take court action if the recipient won't return the money. We recommend you seek legal advice if faced with taking such a step.

## **Receiving a payment to which you are not entitled**

The same applies: you should contact your bank as soon as possible to advise it of the error. And once you have been asked for your consent to reverse the payment to its rightful owner, you should agree. Some people feel they should be allowed to keep money paid into their account, but in general they should return money that does not belong to them.

## **How to contact us**

## **When someone else receives money intended for you**

If someone who owes you money but deposits the money by mistake into someone else's account, it is not your responsibility to chase it up. The person who made the mistake is responsible for trying to recover the money, and whether successful or not is still obliged to pay you.

It is a different matter if you have given the payer the wrong account details. In that case, the payer has simply followed your instructions, so you must bear the loss if the funds can't be retrieved. You should ask the payer to seek the recipient's consent to retrieve the money. If the recipient won't return the money, you may have to take legal action.

### **Case 1: Care still required despite more secure system**

A company bought an online payment system from a bank to manage its accounts. It chose the product because the bank said it was more secure than regular internet banking. Using the system, a staff member subsequently made an online payment and entered the wrong account number. The funds went to another customer, Mr B. The company learned of the mistake and contacted its bank, which asked for the return of the funds. Mr B refused.

The company believed its bank should have warned it the payment system wasn't foolproof and that special care was needed when entering bank account numbers. The bank said it was not responsible for the error because the system's terms and conditions stipulated that customers were responsible for any loss caused by errors on their part when entering account information. The bank said the company had accepted the terms and conditions when it completed the standard application form. Even so, the bank offered a goodwill payment of \$500.

The company complained to us. We agreed that responsibility for entering the correct information rested with the customer, and that no special warning was necessary. The same would have applied to a regular internet banking transaction. The company accepted our view and took the \$500.

### **Case 2: Bank's delay may have contributed to loss**

Ms W wanted to transfer her credit card balance from bank A to bank B, but entered the wrong account details, sending the money instead to the account of Ms L at bank A. This meant Ms W now had a debt with both banks.

After realising her mistake, Ms W contacted bank B, which contacted bank A asking it to contact Ms L to return Ms W's money. After a delay, bank A contacted Ms L to ask her to return the money. She declined to do so. Bank A passed this on to bank B and said there was nothing more it could do. Bank A made an offer to Ms W because it believed it could have acted more quickly in contacting Ms L.

Ms W complained to us that bank A's delay in contacting Ms L was the reason the money was not returned. We considered bank A could have contacted Ms W sooner and communicated with her better, but we could not attribute the non-return of the money to the delay. We asked bank A to reconsider its offer to Ms W. It then offered to reduce Ms W's debt with it by \$650. Ms W accepted bank A's offer.

## **How to contact us**