

## **The complaint and what happened**

Miss L complains, on behalf of I, that Advanced Payment Solutions Limited, trading as Cashplus Bank, won't reimburse payments she didn't make or otherwise authorise.

The full details of this complaint are well known to both parties, so I won't repeat them here. Instead, I'll recap the key points and focus on giving reasons for my decision:

- In May 2022, Miss L received a text about a new device being added to the account, which she didn't respond to. She later received a call from someone purporting to be from Cashplus. She said the number calling was the same number that appeared on the back of her card. She was required to pass security, the caller knew details about her and I's account, including recent transactions.
- Miss L was led to believe the account was at risk and transactions that hadn't been authorised would be stopped. Miss L followed instructions and entered codes onto a weblink when prompted to do so. But, and unbeknownst to Miss L, the caller had accessed I's account and made transactions totalling £2,680, which included use of the overdraft facility.
- Miss L discovered the loss when she checked the account the following day, and she reported the matter to Cashplus. It declined to reimburse transactions as it said Miss L had shared One Time Passcodes (OTPs) against instructions not to.
- When liaising with our office Cashplus agreed to refund the overdraft amount, any fees and charges associated with that, and amend any credit file information. But our investigator didn't think that went far enough. As he wasn't satisfied Miss L had acted with gross negligence or intent, he asked for a full refund. Cashplus has asked for the matter to be referred to an ombudsman; it considers as a long-standing customer, Miss L ought to have realised the website wasn't its, and it says there had been lots of information in the mainstream media about fraud and scams and being extra vigilant.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I agree with the conclusions reached by the investigator for the following reasons:

- In line with the Payment Services Regulations 2017 (PSRs), Miss L (or I) isn't liable for payments she didn't authorise or consent to, unless she failed with gross negligence or intent to comply with the terms of the account and keep personalised security details safe.
- It appears Cashplus accepts Miss L has fallen victim to an impersonation scam, and didn't carry out, or otherwise authorise or consent to, the transactions in question. Under the PSRs, the transactions are therefore considered unauthorised.
- I don't find Miss L failed with intent to keep the security details safe. The actions she took were carried out in the belief she was securing the account.

- I also don't find Miss L failed with gross negligence. She believed she was speaking with her bank, and I understand why. They knew details about her, including genuine transactions carried out on I's account. And she explained the number called from matched a known Cashplus number found on the back of the card.
- I accept Miss L passed on information she shouldn't have, including OTPs. But I don't think that means she seriously disregarded an obvious risk, and therefore failed with gross negligence.
- Miss L believed the actions she took were to prevent unauthorised transactions on the account. And it seems she was led to believe a new device had been added without her authority. She was provided with a weblink and told to enter OTPs in order to put matters right. I accept I has been a customer for a number of years. I also accept the web address might not have been an exact match for Cashplus'. But I don't think it was so different that Miss L ought to have been alert to an obvious risk, particularly as she would have been intent on following instructions she believed were being given by a trusted bank. And although the OTPs say '*DO NOT SHARE with anyone!*' they also say '*This should only be entered on-screen went prompted*'. Miss L didn't share the OTPs per se, rather she entered them onto the weblink when prompted to do so. So she wasn't only following the prompts given by the fraudster but also the instructions of the OTP. This was a sophisticated multi-layered process which started with a text which laid the groundwork for Miss L to believe she was speaking with her bank. Overall, I can see how Miss L was tricked into believing the steps she took were to keep I's account safe, and I think a lot of people would have been tricked into the doing the same, or something similar.
- I don't find Miss L's actions fell so far below what a reasonable person would have done, that it amounts to gross negligence. So I conclude neither Miss L nor I is liable for the transactions and Cashplus needs to put that right – by refunding the remainder of the loss from the unauthorised transactions alongside interest to compensate I for the loss of use of those funds.

### **My final decision**

For the reasons given, my final decision is that I uphold this complaint. I require Advanced Payment Solutions Limited, trading as Cashplus Bank, to reimburse I the remaining £1,700 loss, plus 8% simple interest on that sum from the date of loss to the date of settlement (less any lawfully deductible tax). Cashplus is entitled to retain the initial £35 of the loss as per its terms and conditions and the PSRs.

Under the rules of the Financial Ombudsman Service, I'm required to ask I to accept or reject my decision before 4 February 2023.

Claire Hopkins

**Ombudsman**