

The complaint

A company, which I'll refer to as A, complains that Advanced Payment Solutions Limited (trading as Cashplus Bank) won't refund a transaction it didn't make.

Mr E, who is a director of A, brings the complaint on A's behalf.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. The facts are not in dispute, so I'll focus on giving the reasons for my decision.

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 outcome reached by our investigator for these reasons:

- Cashplus accepted this was an unauthorised transaction. However, in line with the Payment Services Regulations 2017, it refused to refund it because it asserts Mr E failed with gross negligence to comply with the terms of the account and keep A's personalised security details safe.
- Having considered the circumstances carefully, I'm not persuaded Cashplus has shown Mr E failed with gross negligence. Or, in other words, that he acted with *very significant* carelessness; *seriously* disregarded an *obvious* risk; or acted *so far below* what a reasonable person would've done. I'll explain why.
- Mr E received a call from someone who claimed to be from Cashplus. He said he checked their number matched the one on the back of his card and they knew several pieces of personal, sensitive information about him. So I can see why he trusted they were from his genuine bank – I think lots of people would've done.
- Mr E recalled how he was told L's account had been hacked, so they'd need him to follow their instructions to re-register it – in fact, the fraudsters were registering L's account to their own device to make a payment. From what I've been shown of the steps to do this, I've not been persuaded he seriously disregarded an obvious risk by following their instructions, particularly given his understandable trust in the caller and desire to protect L's account.
- Mr E was also asked to enter a one time password on his keypad that he received by text. The message said: "*Cashplus: Your One Time Password – DO NOT SHARE with anyone! This should only be entered on-screen when prompted. Your verification code is: XXXX.*"
- Mr E said he was reassured he wasn't asked to share it with this caller, but instead to enter it on his keypad. Cashplus submit this isn't the same as been prompted on

screen. But the exact wording is “*entered on-screen when prompted*”. And Mr E’s keypad is a screen on his phone, and he was prompted by the caller. So I can see how this made sense to him at the time – indeed, I think lots of people would’ve acted the same way he did.

- I’ve also reflected on how the message isn’t related to a payment and how it came through from his genuine bank when he’d been primed to expect it. So I think it’s understandable that everything fitted together for Mr E in the moment, and why he felt comfortable following their instructions.
- In saying that, I’ve considered Cashplus’s point that as a business customer, it expected more from Mr E and that he should’ve realised what he was being asked to do was unusual. But, even as a business, it’s unlikely he’d have come across this situation many times before – so I can understand why he wouldn’t have known what was and wasn’t usual to have been worried or suspicious. And while I appreciate Cashplus sends education to its customers about scams, I’m not convinced that failing to remember generic information in the heat of the moment made his actions very significantly careless.
- It strikes me this was a convincing, cleverly orchestrated scam, by someone who had likely prepared and researched how Cashplus worked. Taking this all into account, I don’t think Cashplus has shown Mr E failed with gross negligence. So I conclude A isn’t liable for the transaction and Cashplus needs to put things right.

Putting things right

- I understand Cashplus has already refunded the amount that caused A to enter its overdraft. So it must also refund A’s remaining losses from this unauthorised transaction.
- As this remaining amount was A’s own money that it’s been out of pocket for, Cashplus must pay 8% simple interest per year on this amount, from the date of the unauthorised transaction to the date of settlement (less any tax lawfully deductible).
- Cashplus must also refund any interest and charges, along with removing any negative reporting to A’s credit file, that were caused by the transaction.

My final decision

For the reasons I’ve explained, I uphold A’s complaint. Advanced Payment Solutions Limited trading as Cashplus Bank must follow what I’ve set out under “*putting things right*” above.

Under the rules of the Financial Ombudsman Service, I’m required to ask A to accept or reject my decision before 28 March 2023.

Emma Szkolar
Ombudsman