

The complaint

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

Mr N, who is a director of J, brings the complaint on J'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've reached the same outcome as the investigator for these reasons:

- Cashplus hasn't disputed this concerns an unauthorised payment. However, in line with the Payment Services Regulations 2017, it refused to refund it because it asserts Mr N failed with gross negligence to comply with the terms of the account and keep J's personalised security details safe
- Having considered the circumstances carefully, I'm not persuaded Cashplus has shown that's the case. I'll explain why.
- Mr N received a text message that appeared to come from Cashplus – it referenced a request to update the phone number on J's account and told him someone would contact him shortly. He then received a call which similarly appeared as Cashplus – he recalled the caller knew some of his personal information. Taking this all into account – how the communication appeared and the personal information they knew – I can see why he was persuaded they were calling from his genuine bank. I think lots of people would've done.
- Mr N recalled being told that someone was attempting fraud on J's account, so he needed to reset its security details. As part of this, he was asked to click on a link they'd send him by text. It seems likely that by using this link and following instructions under the guise of resetting J's details, he'd in fact enabled the fraudsters to reset J's online banking details and make a payment.
- Mr N can't remember in detail the steps he took during the call, but he's explained he felt convinced to follow the link because it appeared in the same chain of messages as others from Cashplus. He also said that when he clicked on it, it looked like Cashplus's genuine website. Given this familiarity, I'm not persuaded Mr N seriously disregarded an obvious risk, in order for me to conclude he failed with gross negligence. Indeed, I think many others would've acted the same way in these deceptive and convincing circumstances, particularly when they've been cleverly

duped into trusting the caller and were concerned for the safety of their money.

- Cashplus point out that Mr N said he was suspicious of the calls but he seemingly still followed their instructions. He's explained to our service that the key reason for his concerns was because of their persistent calls, including when they appeared to come from his own number. And I note from the call history that most of the calls (including those from his own number) happened *after* the payment was made. So this doesn't lead me to think he actually appreciated a risk when he followed their instructions that allowed this payment to be made.
- I note Mr N also said in a call with Cashplus that he refused to log in when they asked him to because the link came from a different number to the one they called him from. From the messages he shared, the links appeared to come from Cashplus' number – as did the calls before the payment was made. So it's possible the request Mr N spoke about happened later. Or, that when the messages appeared to come from Cashplus, he was reassured they were genuine. Considering both possibilities, I'm not convinced Cashplus has shown Mr N acted with very significant carelessness to say he failed with gross negligence.
- Overall, this was clearly a sophisticated scam that was cleverly planned to target Cashplus's customers. So I don't think Cashplus has shown Mr N failed with gross negligence. That means that, in line with the PSRs, I don't consider J can be fairly held liable for this unauthorised payment and Cashplus needs to put things right.
- Having reviewed J's statements, it appears the unauthorised payment led to several Direct Debits being rejected – leading to fees and J entering its overdraft. So Cashplus should also refund those caused by the unauthorised payment.
- Cashplus should have restored J's account much sooner. So I also award 8% simple interest per year to compensate it for the time it's been out of pocket.

My final decision

For the reasons I've explained, I uphold J's complaint. Advanced Payment Solutions Limited must:

- Pay J the total of the unauthorised payment, less any amount recovered or refunded – I understand this to be £9,600.00.
- Refund J any fees and charges caused by the unauthorised payment.
- Pay 8% simple interest per year on this amount, from the date of the unauthorised payment to the date of settlement (less any tax lawfully deductible).

Under the rules of the Financial Ombudsman Service, I'm required to ask J to accept or reject my decision before 22 May 2023.

Emma Szkolar
Ombudsman