

The complaint

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

Mr S, who is a director of D, brings the complaint on D'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 our 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 S failed with gross negligence to comply with the terms of the account and keep D'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 S received a text message that appeared to come from Cashplus – it referenced a request to update the phone number on D's account and told him someone would contact him shortly. He then received a call which similarly appeared to come from Cashplus's number, and he said 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.
- Mr S recalled being told that someone was attempting fraud on D's account, so he needed to reset its security details. As part of this, he was asked to forward an email he received to an address that mentioned Cashplus. He was also sent a link, which again appeared to be from Cashplus, to supposedly re-register his mobile banking app after they'd allegedly removed all devices. Mr S doesn't remember following this link. But he did recall that he entered a one time passcode on his screen at some point after receiving it by text. So I think it's likely he did use the link and the website was a way for the fraudsters to covertly harvest the information they needed, like the passcode. This is in keeping with similar scams our service has seen.
- Overall, I don't think the steps Mr S took meant he was very significant careless compared to a reasonable person. This scam was cleverly prepared, and I can see how the timing and information in the messages Mr S received made it convincing.

These factors, alongside Mr S's trust in the caller and his understandable concern for D's money, means I don't think he failed with gross negligence.

- In saying that, I've considered Cashplus's point that he shared the passcode when there was a warning not to. But it's not been specific about when Mr S said he shared the code with the caller. Instead, when Mr S reported the scam, he told Cashplus he entered it on his screen. Given that the message says it should be entered on screen when prompted, I don't think he seriously disregarded an obvious risk here. I think many others would've acted the same way – indeed, I note from the calls that this particular scam was familiar to Cashplus' staff, as it is to our service.
- So I don't think Cashplus has shown Mr S failed with gross negligence. It follows that, in line with the PSRs, I don't consider D can be fairly held liable for this unauthorised payment and Cashplus needs to put things right.
- Having reviewed D's statements, it appears the unauthorised payment led to a couple of Direct Debits being rejected – leading to fees and D entering its overdraft. So Cashplus should also refund those caused by the unauthorised payment.
- Cashplus should have restored D'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 D's complaint. Advanced Payment Solutions Limited must:

- Pay D the total of the unauthorised payment, less any amount recovered or refunded – I understand this to be £7,799.20.
- Refund D any fees and charges as well as amending any adverse credit information that were 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 D to accept or reject my decision before 8 June 2023.

Emma Szkolar
Ombudsman