

## **The complaint**

Mrs A complains on behalf of E (a limited company) that Advanced Payment Solutions Limited (trading as Cashplus) won't refund money she lost as a result of a scam.

## **What happened**

Mrs A is a director of A, a limited company which has an account with Cashplus. In June 2022, she received a phone call from someone claiming to be an employee of Her Majesty's Revenue and Customs (HMRC). She was told that she owed tax in relation to the activities of E. She was told that if she didn't pay the outstanding tax and fees, she'd be arrested and face criminal prosecution.

Mrs A believed she was speaking with an employee of HMRC and so she agreed to make a payment. She went on to make eight transfers from her account with Cashplus, totalling £8,983.

Unfortunately, she wasn't dealing with a legitimate representative of HMRC, but a scammer. She realised she must have fallen victim to a scam when she spoke to a friend about what had happened later that day. She contacted Cashplus to let it know, and Cashplus contacted the recipient banks to see if any funds remained, but was only able to recover £4. And, ultimately, Cashplus didn't agree that it had any obligation to refund any further money to E's account, it said the payments had not been unusual enough to trigger its fraud detection systems.

Mrs A was unhappy with this and so she referred a complaint to this service. One of our Investigators looked into what had happened, and they felt that Cashplus should have realised by the fourth payment that something untoward might be going on and that E could be at risk of financial harm. So they felt Cashplus should have contacted Mrs A to ask questions about the payments before agreeing to process any more of them. The Investigator thought that, if this had been done, it would have come to light that Mrs A had been targeted by a scammer.

The Investigator also considered whether Mrs A should bear some responsibility for E's loss. The felt that Mrs A had not done enough to ensure she was speaking with a legitimate representative of HMRC, and that other inconsistencies in what she was being asked to do should have flagged to her that something suspicious might be going on. So the Investigator found that E should bear partial responsibility for the loss here, and recommended that Cashplus refund 50% of the payments made from the fourth payment (inclusive) onwards, plus 8% interest.

Mrs A, on behalf of E, accepted the Investigator's findings, but Cashplus disagreed. It maintained that the payments were not unusual enough to have been flagged by its fraud systems, and said that, in any case, given the red flags that Mrs A had ignored it did not believe any further warnings would have been effective at stopping the scam.

As no agreement could be reached, this case has now been passed to me for a 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 conclusions as our Investigator and for the same reasons.

It isn't in dispute that Mrs A authorised the disputed payments. And the starting position is that Mrs A (on behalf of E) is responsible for transactions she's carried out herself (even as a result of deception). However, taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Cashplus should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which payment service providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

With this in mind, Cashplus therefore needed to be on the lookout for payments that were out of character and where there was a greater risk of fraud.

I accept that the first few payments may not have been out of character enough to flag to Cashplus that something might be wrong. The transactions on E's account were generally low value, but there had been some larger payments in the previous year. However, I agree with our investigator that by the time of the fourth payment, Cashplus should have realised something untoward might be going on. Ms A had made multiple payments, over a short space of time, to new payees. The fourth payment would have meant Ms A had made payments totalling nearly £4,000 in around an hour, and this was not normal activity for E's account.

So I think that by the time Ms A had attempted to make this fourth payment in quick succession, Cashplus ought to have realised that there was a risk that she'd been targeted by a fraudster. And it should not have processed the fourth payment until it contacted Mrs A to satisfy itself there was no risk of fraud. On balance, I think it's likely that, if Mrs A had been asked about this payment, Cashplus would've been able to uncover that she'd been targeted by a fraudster and so prevented her from making that payment or any of the following payments.

I say this because Mrs A doesn't appear to have been given any cover story by the scammers, so I think it's likely she'd have been honest about why she was making the payment if asked. And given that this type of scam is well known in the industry, I think Cashplus would then have been in a position to explain the risk Mrs A had been exposed to. I acknowledge that there were already red flags that Mrs A could have picked up on regarding this being a scam. But I don't think that means she would have continued to make the payments if she'd been told outright by Cashplus that this was likely not legitimate contact from HMRC.

I do though agree with our Investigator's finding that by the time of the fourth payment Mrs A probably ought to have recognised the risk that this wasn't a genuine contact from an HMRC employee herself. The way she was told to make the payments and the types of accounts the payments were made to should have caused her to question the legitimacy of what she was being asked to do. And I've not seen anything to show that she took steps to verify that she was speaking to a legitimate representative of HMRC, I also note that the letter she received (via email) that purported to be from HMRC contained numerous grammatical and spelling errors. So, with all this in mind, I think it's fair and reasonable for E to bear responsibility for 50% of the loss.

Lastly, I'm satisfied that Cashplus did what it could to recover the funds. Once it had been told of the fraud it contacted the recipient banks straight away, it's just unfortunate that the vast majority of the funds had already been moved on by that stage.

So, in summary, I consider that Cashplus could have done more to prevent this fraud from the fourth payment made onwards, but find that E should also bear some responsibility for the financial loss here. I therefore consider that Cashplus should refund 50% of the payments made from the fourth payment onwards.

### **Putting things right**

To resolve this complaint Cashplus should:

- Refund to E 50% of the payments from the fourth payment onwards (inclusive) – representing a refund of £2,995
- Pay 8% interest on this amount from 9 June 2022 to the date of settlement.

### **My final decision**

I uphold this complaint. Advanced Payment Solutions Limited (trading as Cashplus) should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask E to accept or reject my decision before 25 October 2023.

Sophie Mitchell  
**Ombudsman**