

## **The complaint**

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

Mr K, who is a director of R, brings the complaint on R's behalf. Mrs K is also a director of R, who I'll refer to in the decision.

## **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 unauthorised payments. However, in line with the Payment Services Regulations 2017, it refused to refund them because it asserts R failed with gross negligence to comply with the terms of the account and keep its personalised security details safe.
- To support that, it's pointed out how Mrs K shared a one-time passcode (OTP) with a third party and approved a new trusted device on the account.
- I've reflected on the circumstances that led to these actions. Looking at R's records, it received a text message that appeared to come from Cashplus – it referenced a request to update the phone number on R's account and said someone would be in touch shortly. Mrs K then answered a call which similarly appeared to come from Cashplus's number – she recalled they knew some personal information, like her name and address.
- Taking this all into account – how the communication appeared and the information they knew – I can see why she was persuaded they were calling from R's genuine bank. I think lots of people would've been in these circumstances.
- Mrs K said she was told R's account had been compromised and to fix that, she'd need to reset its online banking using a link they'd send her by text, which subsequently appeared to come from Cashplus. Mrs K followed this, and when prompted, she entered an OTP received by text message. It seems she must have also enabled a new device to be trusted as part of the process.
- I'm mindful of the plausible and alarming situation the caller created for why Mrs K needed to follow their instructions, and the sophisticated steps they used to trick her into handing over the information they needed, like the fake Cashplus link in a

spoofed message. In these deceptive circumstances, I can understand how Mrs K took the steps she did. And when I also consider Mrs K's belief she was talking with R's genuine bank, I'm not persuaded Cashplus has shown she acted with *very significant* carelessness to conclude she failed with *gross* negligence.

- In saying that, I've noted Cashplus's point that Mrs K wasn't permitted to talk to Cashplus about R's account at the time – so this call should've rung alarm bells. But it's not clear she knew that at the time. And as a director of R, I can see how it didn't concern her that R's bank was speaking with her. So this doesn't change my mind.
- It follows that, in line with the PSRs, I don't consider R can be fairly held liable for these unauthorised payments and Cashplus needs to put things right – by refunding the remaining losses from the payments.
- Cashplus should have restored R's account much sooner. So I also award 8% simple interest per year from the date of the unauthorised payments to the date of settlement to compensate it for the time it's been out of pocket.

### **My final decision**

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

- Pay R the total of the unauthorised payments, less any amount recovered or refunded.
- Pay 8% simple interest per year on this amount, from the date of the unauthorised payments to the date of settlement (less any tax lawfully deductible).

Under the rules of the Financial Ombudsman Service, I'm required to ask R to accept or reject my decision before 14 September 2023.

Emma Szkolar  
**Ombudsman**