

The complaint

A company, which I'll refer to as D, complains that PayrNet Limited won't refund payments it didn't make.

Mr N, who is a director of D, brings the complaint on D's behalf.

ANNA Money, who N's account is with, is an agent for PayrNet. For ease, I'll mainly refer to ANNA throughout the decision, although PayrNet are ultimately responsible for this complaint.

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:

- ANNA declined to refund these unauthorised payments under the Payment Services Regulations 2017 (PSRs) because it asserts Mr N failed with gross negligence to comply with the terms of the account and keep D's personalised security details safe.
- In saying that, it's pointed out how Mr N shared several one time passcodes (OTPs) with a fraudster despite the messages describing transactions and warning him not to share them.
- To assess whether Mr N failed with gross negligence, I've reflected on the circumstances of the scam. Mr N said he received a call that appeared to come from ANNA's number – the caller told him they were from ANNA's fraud department and they instructed him to share the OTPs to block fraudulent payments from D's account. Mr N said he couldn't properly access ANNA's app at the time, and in a moment of panic that D's account was compromised, he focussed on the numbers they instructed him to share and didn't properly read the rest of the messages.
- I can see why Mr N trusted the call was genuine – the phone number appeared correctly, they knew personal information about him, and messages genuinely came through from ANNA when he'd been told to expect them. I can also understand why Mr N became panicked and acted with haste – he was duped into believing D's money was at risk and he needed to act urgently, which seemingly coincided with multiple messages he was receiving from ANNA.
- ANNA submits it was grossly negligent Mr N didn't properly read its messages with the OTPs. But given that he trusted the caller and was panicked about D's money, I can

see how he simply looked for the OTPs.

- In saying that, I'm mindful of how commonly OTPs are used, by lots of companies for several different purposes. Given their prevalence, I've doubts whether lots of people take the time to read these messages in full – and instead trust they're for what they've been told. It follows that, in the circumstances of an organised and deceptive scam, I don't think I could fairly say Mr N acted so far below what a reasonable person would've done.
- This isn't to say Mr N acted perfectly reasonably – it's possible to call his actions careless. But, having considered the circumstances carefully, I'm not persuaded ANNA has shown he acted with very significant carelessness to conclude he failed with gross negligence.
- It follows that, in line with the PSRs, I don't consider D can be fairly held liable for these unauthorised payments and ANNA needs to put things right – by refunding its losses from the payments alongside 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. PayrNet Limited must:

- Pay D the total of the unauthorised payments less any amount recovered or already 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 D to accept or reject my decision before 19 October 2023.

Emma Szkolar
Ombudsman