

The complaint

Mr S is a sole trader. He complains that Advanced Payment Solutions Limited (trading as Cashplus Bank) won't refund payments he didn't make.

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 Mr S failed with gross negligence to comply with the terms of the account and keep his personalised security details safe. To support that, it's pointed out how he shared two one-time passcode (OTPs) with a third party.
- I've reflected on the circumstances that led to Mr S taking these steps. He's explained he received a call from someone who said they were from Cashplus. He said that because it was a London number, and they knew some personal information about him, he trusted the call was genuine.
- He recalled being told about attempted suspicious transactions, which he remembers seeing on his banking app. They explained that to stop these, he'd need to provide OTPs they'd send to him by text. He read these out after seeing them from the preview banner on his phone – so he didn't take in the details of the messages or the warning not to share them with anyone.
- Having considered these circumstances carefully, I've not persuaded Cashplus has shown he acted with *very significant* carelessness to conclude he failed with *gross* negligence. I can see how Mr S trusted the call was genuine and how he would've been further reassured by the timing and sender of the text messages – he believed he was talking with Cashplus and messages came through from them when he was told to expect them.
- And I don't think it sounds implausible that an OTP might be needed to cancel a payment – after all, OTPs are genuinely used for lots of different purposes, and I wouldn't expect Mr S to be an expert on Cashplus's protocols for stopping fraud.
- I'm also mindful that he was acting in the heat of the moment when he was concerned about protecting his account from fraud. So, while it's possible to be critical of Mr S's actions with the benefit of hindsight, in the circumstances of this

cleverly deceptive and sophisticated scam, I don't think he seriously disregarded an obvious risk. Indeed, I think lots of other people would've acted the same way he did.

- It follows that, in line with the PSRs, I don't consider Mr S can be fairly held liable for these unauthorised payments and Cashplus needs to put things right – by refunding his losses from the payments.
- Cashplus should have restored Mr S's account much sooner. So I also award 8% simple interest per year to compensate him for the time he's been out of pocket.

My final decision

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

- Pay Mr S the total of the unauthorised payments, less any amount recovered or refunded – I understand this to be £3,673.99.
- 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 Mr S to accept or reject my decision before 14 September 2023.

Emma Szkolar
Ombudsman