

The complaint

A company, which I'll refer to as W, complain that Advanced Payment Solutions Limited trading as Cashplus won't refund an unauthorised payment taken from their account. Ms F, Mr F and Mr C, the directors of W, bring this complaint on W's behalf.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving 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 agree with the conclusions reached by the investigator for these reasons:

- I take it Cashplus accepts the disputed payment was unauthorised. So, in line with the Payment Service Regulations 2017 (PSRs), it can only hold W liable if the directors failed, with intent or gross negligence, to keep W's personalised security credentials safe or comply with the terms of the account – and that failure allowed the unauthorised payment to be made.
- Here, Ms F did share a One Time Passcode (OTP) with a scam caller. It seems the scammer already had W's card details, although there is no allegation those were shared by the directors. The scammer used W's card details to initiate the payment – and was able to complete it using the OTP Ms F was tricked into sharing.
- In the circumstances of the scam, I'm not persuaded that, by sharing the OTP, Ms F failed *with intent or gross negligence* to keep W's security credentials safe.
- The scam unfolded as follows: Ms F received a call from someone claiming to be from Cashplus, who knew the account balance as well as the card details. I can see why Ms F believed this was genuinely Cashplus, based on the information they knew. This appears to have been a targeted scam against Cashplus customers.
- The caller claimed there had been suspicious transactions on the account. This was a social engineering tactic, to create a sense of pressure and urgency that persuaded Ms F she had to act quickly, and follow the caller's instructions, to protect the account.
- The caller primed Ms F to expect a text from Cashplus, containing an OTP, which they told her she needed to provide to them so they could *prevent* fraudulent payments from being taken. She has explained she didn't read the rest of the message, she just passed over the code at the beginning of the message as directed.

- In sharing this code, Ms F didn't intentionally fail to keep the account safe – as she thought she was sharing information with W's bank to *protect* the account.
- the circumstances, I can see how Ms F trusted the call was genuinely from Cashplus and why – in the heat of the moment – she therefore read out the code to them, as instructed, without reading the entire message (which in any event doesn't seem to have contained clear warnings about not sharing the code).
- Ms F didn't seriously disregard an obvious risk – rather, she *didn't* foresee the risk, having been tricked by a clever and targeted scam. And, for the reasons given, I don't think she acted *significantly* carelessly in the circumstances either. So I don't think her failing was one of *gross* negligence.
- I therefore agree with the investigator that, in line with the PSRs, Cashplus is liable for this payment and should therefore refund W, with interest – to compensate them for the loss of use of the funds.
- W accept this and are no longer seeking any further compensation or action from Cashplus to resolve the complaint (such as compensation for non-financial loss or indemnity against any costs incurred raising the complaint). Nor do I think anything else is fairly due.

My final decision

For the reasons given above, I uphold W's complaint. Advanced Payment Solutions trading as Cashplus must:

- Pay W the total of the unauthorised payment, less any amount recovered or refunded – I understand this to be £3,559.40; and
- Pay 8% simple interest per year on this amount, from the date of the payment to the date of settlement (less any tax lawfully deductible).

Advanced Payment Solutions must pay the compensation within 28 days of the date on which we tell it W accepts my final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask W to accept or reject my decision before 6 October 2023.

Rachel Loughlin
Ombudsman