

The complaint

G, a company, complains that Advanced Payment Solutions Limited (trading as Cashplus Bank) won't refund money it lost from a scam.

Mr G, a director of G, brings the complaint on G's behalf.

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 agree with the outcome reached by the investigator for these reasons:

- It's not in dispute that Mr G was scammed. But nor is it in dispute that he authorised the payments. So the starting position, in line with the Payment Services Regulations 2017, is that Mr G, rather than Cashplus, is liable for them.
- But there are some situations where we believe that banks – taking into account relevant rules, codes and best practice – ought to have identified a fraud risk, so should have looked at the wider circumstances surrounding the transaction before making the payment. If Cashplus failed to do so, and that failure led to a fraudulent loss, it might be fair to hold it liable.
- The first payment Mr G made as part of the scam was for £20,000 to a new payee. G's statements leading up to the scam show this was significantly higher than G's usual spending. And given that Mr G had fallen victim to a different scam months before this, I think Cashplus ought to have been concerned that G was at risk of financial harm.
- If Cashplus had intervened appropriately and questioned Mr G about what the payment was for, I think the scam would've unravelled and G's losses would've been prevented. After all, Mr G would've realised he was not, in fact, speaking with Cashplus and it wasn't necessary to move his money into a safe account.
- So, in summary, given this was a relatively significant amount to new payee and Mr G had a recent history of being a victim of fraud, I think Cashplus ought to have been concerned and intervened when the first payment was made. And I consider it likely the scam could have been uncovered at this point – preventing any losses from this account.
- It follows that Cashplus ought to refund G's losses from this scam, alongside 8% simple interest per year to compensate it for the time it's been out of pocket.

- However, I've also considered whether G should fairly be held partly responsible for what happened by way of contributory negligence. I can understand how Mr G fell for this scam – they spoofed Cashplus' number and sent text messages that appeared to come from Cashplus that legitimised the scam. And I can see how the situation felt plausible to Mr G, given how his account had been compromised before as a result of a scam. In saying that, I recognise that Cashplus had spoken with him in the aftermath of this previous scam. But I don't consider that the warnings were specific enough for Mr G to have realised he was at risk, given the particular circumstances of this scam.
- It follows that I don't consider it fair to reduce G's compensation due to contributory negligence.

My final decision

For the reasons I've explained, I uphold G's complaint. Advanced Payment Solutions Limited (trading as Cashplus Bank) must:

- Pay G the total of the disputed payments, less any amount recovered or already refunded. I understand this to be £20,231.59.
- Pay 8% simple interest per year on this amount, accruing from when the disputed payments happened to the date of settlement, less any tax lawfully deductible.

Under the rules of the Financial Ombudsman Service, I'm required to ask G to accept or reject my decision before 20 October 2023.

Emma Szkolar
Ombudsman