

The complaint

S a limited company complains that Zempler Bank Limited (trading as Cashplus Bank) blocked and closed its account. And sent its remaining balance back to source.

S's complaint has been brought to our service by its director, Mr H.

What happened

S had an account with Cashplus that it used to receive payments for services it provided to clients.

In July 2022, S received a payment of £187 into its Cashplus account, from an individual I will refer to as C.

Following this, Cashplus received a notification from another bank that their customer, C, had been the victim of a scam – they told their bank that they hadn't received any goods/services from S after they'd sent money to it.

C told their bank that they had paid S to arrange for him to obtain a government document, but when C had gone along to the scheduled appointment the office was closed. So, they hadn't received what they'd paid S to provide.

Cashplus blocked S's account and asked Mr H to provide information about the payment S had received from C. And to provide any evidence of his entitlement to the money. In response, Mr H explained that the payment was for work he'd done in relation to government document. And the transaction was legitimate. Cashplus reviewed the information but didn't think it showed S was entitled to the money, so it sent the £187 back to source.

Following this Cashplus decided to close S's account and wrote to Mr H giving him 60 days' notice that he'd need to make alternative banking arrangements. During the notice period S's account remained blocked, so Mr H was unable to use it.

Cashplus didn't question Mr H about the remaining funds in Mr H's account and sent the balance of S's account back to several sources.

Mr H complained to Cashplus and asked them to return his balance to him. In response, Cashplus said it hadn't done anything wrong and wouldn't return the balance to him. It said it had blocked S's account to comply with its legal and regulatory obligations and had sent the funds back to source in line with the account terms and conditions.

Unhappy with this response Mr H brought S's complaint to our service where one of our investigator's looked into what had happened.

The investigator asked Mr H about the funds that Cashplus had returned and to provide proof of his entitlement to the money. In response, Mr H provided copies of appointments

he'd booked for clients including repeat appointments, which he said showed that his customers were happy, and the transactions were fine.

The investigator also asked Cashplus some questions – including whether any of the senders had raised any concerns about the payments. And if they had asked Mr H for any information. Cashplus said it hadn't asked Mr H for anything and it had reached out to one of the sending banks who had confirmed that their customer, who'd paid S £222, didn't have any issues with the service S had provided to them.

After reviewing everything the investigator said he didn't think Cashplus had treated S unfairly when it had blocked and closed its account. However, he didn't think it had treated S fairly when it had sent S balance back to sources. To put things right he said Cashplus should return S's balance, pay £300 compensation along with 8% simple interest for loss of use of the funds.

Mr H agreed. Cashplus disagreed and asked for an ombudsman to review the matter. So, the complaint has been passed to me to review.

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.

Cashplus are strictly regulated and must take certain actions in order to meet their legal and regulatory obligations. They can broadly be summarised as a responsibility to protect persons from financial harm, and to prevent and detect financial crime.

In order to meet these obligations, they are required to conduct ongoing monitoring of an existing business relationship. That sometimes means Cashplus need to restrict, or in some cases go as far as closing customers' accounts and return payments.

Fraud is a serious matter, and one way financial businesses and banks can help to tackle fraudulent payments are by restricting accounts when allegedly fraudulent payments are received into them. And that's what happened here. I should also add that Cashplus is not required to prove beyond reasonable doubt that Mr H is guilty of a fraud or financial crime before it decided to block S's account and carry out a review.

Having looked at all the evidence, I don't believe it was unreasonable in the circumstances for Cashplus to block Mr H's account. Cashplus has explained that this was its standard procedure, and I accept that it was. I'm satisfied that in doing so Cashplus were complying with its legal and regulatory obligations. Doing so also enabled Cashplus to consider how best to react to the information it had received from the sending bank about the money that had been paid into S's account by C. So, whilst I accept, Cashplus's actions caused S inconvenience when it blocked its account, I can't say it did anything wrong and treated S unfairly in doing so.

I've next looked at whether Cashplus treated S fairly when it decided to close its account. It's generally for banks and financial businesses to decide whether or not they want to provide, or to continue to provide, banking facilities to any particular customer. Unless there's a very good reason to do so, this service won't usually say that a bank must keep customer or require it to compensate a customer who has had their account closed. Cashplus have relied on the terms and conditions when closing S's account.

I've reviewed the terms and they explain that Cashplus can close an account for any reason by giving two months' notice. Having looked at all the information available to me, including Cashplus's actions and the information it's provided I'm satisfied that Cashplus's decision to close S's account was reached legitimately and fairly.

I've reviewed the terms and conditions and circumstances of this complaint, and I'm satisfied Cashplus acted in line with them, so, it was entitled to close the account as it has already done. Cashplus have provided S with the full notice period, so I can't say Cashplus have acted unfairly in taking the actions it did. I've considered whether Cashplus need to offer any compensation in regard to the closure. But from what I've seen the decision to close S's account was reasonable.

The crux of Mr H's complaint is that he wants Cashplus to refund the money it sent back to source – the funds that made up the closing balance. Having looked at all the evidence and circumstances of this complaint, I'm minded to say that the fair and reasonable outcome is that Cashplus refund S. I shall explain why.

First, I'd like to acknowledge the difficulties that this complaint presents. There was a particular tension for Cashplus here because on the face of it, both Mr H and the individual who sent the funds to K, were victims of fraud. In such circumstance there is a natural impulse to restore positions as far as possible. It is well documented that banking fraud is very damaging not only to the financial sector itself, but more particularly to individuals.

Mr H went to some lengths to explain to Cashplus that he hadn't done anything wrong and sent them evidence to support his explanation. However, Cashplus decided to return the funds to the victim of the original alleged scam, so that they could be refunded.

Cashplus have said it did this on the basis of the outcome of its review of S's account and in order to comply with its legal and regulatory obligations. The effect of Cashplus's actions meant that S has lost the money it received in return for arranging a service.

Whilst initially Cashplus were sceptical about Mr H's explanation, Mr H has provided evidence to this service that it appears C went to the arranged appointment on the wrong date – on a Sunday instead of on a Tuesday. So, the office was closed. This appears to be misunderstanding between a customer and S rather than a scam. However, I don't think this was made clear at the time. And it is only now that Mr H has provided more information to our investigator that the circumstances are now clearer. So, I don't think returning the money C had paid S, was unreasonable at the time.

Following this Cashplus returned S's account balance to senders. It said it did so in line with the terms and conditions of the account. When considering Cashplus's terms and conditions I've noted one term of relevance which states:

- 14.5 Where we have received a request to return a payment from a bank that made a payment into your Account as a result of a mistake or error (for example, if a payment is incorrectly sent twice) we will take the payment from your Account balance and send it back to the bank which made the request.
- 14.6 We will also not be liable for:
- (a) business interruption; or
 - (b) loss of revenue, reputation, goodwill, opportunity or anticipated savings; or
 - (c) any loss or damage whatsoever which does not stem directly from our breach of these Terms and Conditions.

I'm not satisfied this would apply to the facts of S's complaint. I say this because the payments into S's account were made as the result of services S provided not an error or mistake.

In this case, based on the evidence I've reviewed, which includes the documents Mr H has Provided to this service, I'm satisfied that Mr H had a credible complaint. There's no evidence to suggest Mr H dishonestly procured the funds he received from any of the senders of the funds. Nor is there any evidence that he knew, believed or suspected that the funds had been illegitimately procured by someone else in order to pay S for their services.

The investigator has asked Cashplus why it took this decision instead of releasing Mr H's balance back to him. But Cashplus hasn't provided a satisfactory explanation, supported by evidence, as to why it returned the remaining money in S's account back to the original sources. As I've set out above, I accept that there are times when it is appropriate for Cashplus to return funds to original sources. But in order to decide whether or not that is the case, I would expect to see appropriate evidence to support such a decision.

I can understand Cashplus concerns. But I've seen nothing to suggest the people who sent money to S's account, apart from C, had challenged the payments they made to S or requested their money back before Cashplus returned them.

I've also not seen any evidence that Mr H obtained the funds dishonestly. Cashplus didn't speak to Mr H about all of the money that had been paid into S's account. And I can't see that Cashplus carried out a thorough investigation to establish if Mr H was entitled to the money in S's account. So, I'm not satisfied that Cashplus had sufficient evidence to justify depriving Mr H of all of the funds in S's account. So, I think the fair resolution here, based on all the circumstances would be for Cashplus to return the funds it took from S's account back to Mr H.

Finally, I've considered what Mr H has said about how Cashplus's actions impacted S. Mr H had to spend time contacting Cashplus trying to sort out what had happened to S's funds. And he had to spend time chasing customers trying to get money back, but despite his best efforts, S was left out of pocket. I think Mr H has made reasonable efforts to minimise the financial losses by contacting S's customers – unfortunately without any success. But I don't think Cashplus did enough to satisfy themselves that Mr H wasn't entitled to the money paid into S's account in the first place. So, I think adding interest at 8% simple on the amount they refund S fairly compensates S for the loss of use of this money.

I also think Cashplus should pay compensation for the trouble this overall situation has caused S. Mr H has said he has had to take time away from running his business to try and trace the funds that were returned and understand what had happened.

Taking everything into account, I am satisfied that Cashplus's decision to send back the payment has caused S inconvenience. I consider the amount of £300 compensation to be appropriate in the circumstances.

My final decision

For the reasons I've explained my final decision is that I uphold this complaint. To put things right Zempler Bank Limited (trading as Cashplus Bank) should do the following:

- Refund S it's closing balance as of 4 October 2022.
- Pay S 8% simple interest on the money in its account from 4 October 2022 to the date they refund the account balance to S*.
- Pay Mr H £300 compensation for the trouble this matter has caused him.

*If Zempler considers that it's required by HM Revenue & Customs to deduct tax from that interest, it should tell Mr H how much it's taken off. It should also give Mr H a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 31 December 2024.

Sharon Kerrison
Ombudsman