

## **The complaint**

A company, which I'll refer to as T, complains that Advanced Payment Solutions Limited (trading as Cashplus Bank) won't refund payments it didn't make.

Miss K, who is a director of T, brings the complaint on T'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 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:

- Our investigator concluded the disputed payments were unauthorised and that, in line with the Payment Services Regulations 2017, they ought to be refunded.
- Cashplus didn't accept this, however, it agreed to refund the first disputed payment. That's because it thought Miss K should have read the text message after the first payment and identified that it shouldn't be shared.
- It follows that Cashplus has seemingly accepted this concerns unauthorised payments. And while it's not explicitly argued this, it appears Cashplus are saying that, for the second payment, Miss K failed with gross negligence to comply with the terms of the account and keep her personalised security details safe – something which, if proven, means she wouldn't be entitled to a refund under the PSRs.
- To decide this, I've reflected on the circumstances on the scam:
  - Following several missed calls, Miss K received a call from someone who said they were calling from Cashplus' fraud team. She said they knew her name and business name, as well as another business name who paid T.
  - Miss K recalled being told they wanted to verify her transactions as there had been suspicious activity on T's account.
  - She remembered they took her through security questions and explained that, given the nature of the situation, they'd need to take her through further security. They said they'd send her a code which she'd need to relay back to them.

- Miss K said she shared this, having read the code from the preview that's shown on her phone. Afterwards, they told her it didn't work, and asked to relay another code, which Miss K did.
- When they asked a further time, Miss K opened the message in full and saw the details on the payment. So she ended the call.
- Given the caller's familiarity with her information and their seemingly routine questioning, I can see why Miss K trusted she was talking with her bank – I think lots of people would've done.
- I can also understand why she shared the codes as instructed, particularly when messages came through from Cashplus when she'd been told to expect them.
- Cashplus submit that after the first payment, Miss K ought to have read the message in full and seen the warning not to share it. But Miss K wouldn't have known there had been a first payment – after all, she genuinely thought she was speaking to Cashplus about fraud. And I'm satisfied she'd been given a plausible sounding explanation about why they needed a second code. I'm also mindful that Miss K was on a call and being asked to read a code from the same device.
- Taking this all into account, I can see why she just looked at the preview of the message and didn't open it full. I'm not persuaded it meant she acted with *very significant* carelessness for me to say Miss K failed with *gross* negligence.
- It follows that I'm not persuaded Cashplus has shown Miss K failed with gross negligence for either disputed payment. So, in line with the PSRs, I don't consider T can be fairly held liable for them and Cashplus needs to put things right – by refunding T's losses from the payments alongside 8% simple interest per year to compensate it for the time it's been out of pocket.
- Cashplus ought to have refunded this much sooner. I realise that's had an impact on Miss K mentally. But the account and subsequent complaint is in T's name. And I can't reasonably conclude that T, as a distinct legal entity, has suffered distress. So I make no further award.

### **My final decision**

For the reasons I've explained, I uphold T's complaint. Advanced Payment Solutions Limited must:

- Pay T the total of the unauthorised payments, less any amount recovered or 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 T to accept or reject my decision before 14 March 2024.

Emma Szkolar  
**Ombudsman**