

## **The complaint**

Mr E complains about the actions of Zempler Bank Limited trading as Cashplus Bank when he lost money to a scam.

Mr E is being represented by a claims management company but for ease of reading I'll only refer to Mr E in the decision.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Around February 2021 Mr E came across an investment opportunity in cryptocurrency. He was contacted by a merchant and persuaded to start making some payments to a genuine cryptocurrency exchange which would then be moved on towards this investment opportunity. In total Mr E sent around £14,620 in five payments from 18 February 2021 and 05 May 2021.

After being continually asked to pay withdrawal fees and told that his account had been frozen until they had been paid, Mr E realised he had been scammed and contacted Cashplus to make a claim. But Cashplus said it hadn't done anything wrong and didn't offer Mr E a refund. So, he brought his complaint to this service.

Our investigator didn't think the complaint should be upheld. She said that the payments wouldn't have seemed unusual or suspicious to Cashplus at the time based upon Mr E's previous payments. So, she didn't think Cashplus had treated Mr E unfairly.

Mr E disagreed and asked for an Ombudsman's review. He said the payments he made towards the scam were unusual for his account because they were made to a new beneficiary – a cryptocurrency exchange, and Cashplus failed to spot what was happening on his account. So, Cashplus should've flagged the payments which would've more than likely uncovered the scam.

## **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 conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Mr E has been the victim of a cruel scam. I know he feels strongly about this complaint and this will come as a disappointment to him, so I'll explain why.

I've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

It is common ground that Mr E authorised the scam payments of around £14,620. I accept that these were authorised payments even though Mr E was the victim of a scam. So, although it wasn't his intention to pay money to the scammers, under the Payment Services Regulations 2017 (PSRs) and the terms of his account, Mr E is presumed liable for the loss in the first instance.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for Cashplus to take additional steps or make additional checks before processing a payment in order to help protect customers from the possibility of financial harm from fraud.

Cashplus's first obligation is to follow the instructions that Mr E provides. But if those instructions are sufficiently unusual or uncharacteristic for the account, I'd expect Cashplus to intervene and to ask their customer more about the intended transaction before processing it. I'd also expect Cashplus to provide suitable warnings about common scams to help their customers make an informed decision as to whether to continue with the payment. There might also be cases where it's appropriate for Cashplus to refuse to follow the instruction if there are good grounds to believe it is being made as a result of fraud or a scam.

So, the starting point here is whether the instructions given by Mr E to Cashplus were unusual in relation to his typical account activity. So, I've reviewed the account statements for the twelve months prior to the scam payments, which I consider gives a good sample size to assess what was typical activity for the account. The account was typically well managed and maintained a credit balance. I note Mr E had made similar sized payments before of £3,800 on 13 February 2020, £2,500 on 18 February 2020, two £5,000 payments both on 05 June 2020 and a further two separate £5,000 payments later the same month.

I can also see that Mr E had previously deposited £84,491 into his account on 17 February 2020 which shows that he would sometimes deposit money into his account before proceeding to make similar sized payments to the ones he made towards this scam out of his account. I've considered that these payments were reasonably spaced out and there wasn't the usual signs of fraud of a small deposit being made before the transactions steadily increasing in value and velocity.

I appreciate Mr E has said these payments to the scammer were sent to a high-risk cryptocurrency exchange which should've raised a concern for Cashplus. But that alone isn't sufficient for me to consider these to be unusual payments – account usage can change over time. And the payments he made towards the scam were similar in size to the payments he made previously.

As a result, I don't think the payments were so unusual or out of character that it's reasonable to have expected Cashplus to have intervened at the time.

I've considered whether Cashplus acted reasonably when it was made aware of the scam. We know that Mr E made card payments to a genuine cryptocurrency exchange before moving this money to the scammers. So, I'm satisfied Mr E wasn't treated unfairly by Cashplus not raising a chargeback because he received the service he paid for on his card (the cryptocurrency) and there were no funds left to recover from the exchange.

In these circumstances I can't conclude the outstanding loss is the fault of Cashplus. To be clear, I'm not blaming Mr E for the loss – it's ultimately the scammer who is to blame. But for the reasons I've explained above, I don't think he's been treated unfairly by Cashplus.

**My final decision**

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 14 April 2025.

Mark Dobson  
**Ombudsman**