

## **The complaint**

Ms D is unhappy that Think Money Limited won't refund payments she didn't make.

## **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've reached the same conclusions as our investigator for these reasons:

- Think Money has refused to refund these unauthorised payments under the Payment Services Regulations 2017 (PSRs) because it asserts Ms D failed with gross negligence to comply with the terms of the account and keep her personalised security details safe.
- In saying that, it's pointed to how Ms D shared her memorable phrase and two passcodes with a third party despite warnings not to. It's also pointed to scam warnings it displayed when you open its banking app.
- To assess whether Ms D failed with gross negligence, I've reflected on the circumstances of the scam. Ms D saw a payment she didn't recognise, and she subsequently received a call from someone who claimed to be from Think Money. She recalled they used a spoofed Think Money number, and they knew personal information about her.
- Considering how the call coincided with her genuine banking activity, the presentation of the call and their knowledge of her details, I can see why Ms D trusted it was genuine. I think lots of people would've done in these circumstances.
- Ms D explained she was told about further transactions she didn't recognise and was led to believe her account was at risk. To sort this out and to block her card, she was asked to share her memorable phrase and passcodes.
- Given her trust in the caller and the plausibility of the situation, I can understand how she followed their instructions and shared the information. I'm mindful that Ms D didn't use her memorable phrase often, so I can see why she didn't appreciate its significance in the moment as something that could be used to steal her money. I've also thought about how the codes came through from Think Money when she'd been told to expect them – likely reinforcing her belief that the call was genuine.
- In saying this, I recognise Ms D was given warnings not to share the codes in the text messages she received. But given how they cleverly duped her into trusting the call

was genuinely to protect her account, I can see how she didn't stop to take in the messages and simply shared the codes.

- I've also noted Think Money's point that Ms D had acknowledged a warning about scams several times when she logged on to its app. But I can see how there could be a disconnect between her seeing a warning in passing when she accessed her app, and her recognising that it's relevant to the otherwise very convincing and sophisticated scam in the heat of the moment.
- This isn't to say that Think Money's efforts to prevent fraud are fruitless. Or even, that Ms D acted perfectly reasonably – it's possible to call her actions careless. But, having considered the circumstances carefully, I'm not persuaded Think Money has shown she *seriously* disregarded an *obvious* risk to conclude she failed with gross negligence.
- It follows that, in line with the PSRs, I don't consider Ms D can be fairly held liable for these unauthorised payments and Think Money needs to put things right – by refunding her losses from the payments alongside 8% simple interest per year to compensate her for the time she's been out of pocket.

### **My final decision**

For the reasons I've explained, I uphold Ms D's complaint. Think Money Limited must:

- Pay Ms D 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 Ms D to accept or reject my decision before 23 May 2024.

Emma Szkolar  
**Ombudsman**