

## **The complaint**

Mrs R complains that PSI-Pay Ltd ("Pockit") failed to refund transactions she didn't recognise.

## **What happened**

Mrs R explained that she received three payment notifications from Pockit that she didn't recognise. These payments were for increasingly large amounts and included a foreign payment fee. In total, Mrs R said that she lost £1,025.34 from her account.

Mrs R reported the loss to Pockit after blocking her card using Pockit's app. Pockit asked Mrs R to complete chargeback forms and arranged for a new card to be sent to her. Mrs R later said there were multiple further attempts from the same account that tried to take her funds.

Pockit told Mrs R that their records indicated the payments were made using Apple Pay that had been authorised through her account after a One Time Passcode (OTP) had been sent to her registered mobile device.

Mrs R told Pockit she didn't use an Apple device (to be able to use the apple Pay feature) and she didn't have a record of the OTP Pockit said they'd sent.

Pockit didn't think they could successfully make a chargeback request based on the OTP information. Mrs R was unhappy with Pockit's handling of her issue and brought her complaint to the Financial Ombudsman Service for an independent review.

Pockit were advised of the complaint and because they hadn't yet had chance to respond to Mrs R's complaint, they carried out a further investigation into their own handling of the situation. They then wrote to Mrs R to tell her they weren't going to refund her based on the additional (OTP) step they'd carried out.

Both parties were then asked by our investigator to provide whatever information they could to highlight the issue. Mrs R confirmed she didn't know the person who received her funds and hadn't made the payments. She was at a loss to work out how they'd been allowed to take place. She also stated she hadn't received any requests to pass on any OTPs, nor did anyone else have access to her phone or account. Mrs R also said that no one else had used her Pockit card and she still had it in her possession, and she'd reported the loss to Action Fraud.

Mrs R explained that the loss of the funds caused her difficulties at the time as it was just after her wages were paid into the account and she'd had to rely on others to assist her. Mrs R was able to provide a list of OTPs she'd received from Pockit. None of them were linked to the addition of Apple Pay for a new device. There were a number from Pockit, but these related to specific transactions unrelated to this complaint.

Pockit provided some detail about the account, but little connected to the transactions disputed by Mrs R. After reviewing the evidence, the investigator concluded that Pockit

hadn't provided the appropriate levels of evidence to link Mrs R to the disputed transactions and recommended they should refund them, add interest and pay her £150 for their handling of the complaint which caused Mrs R distress and inconvenience.

It was commented that based on the lack of evidence originally provided by Pockit, the outcome could change if Pockit provided new information. Pockit disagreed with the investigator's outcome and provided additional information. Again, very little of it related to those transactions disputed by Mrs R.

The investigator wrote to Pockit advising them that her original recommendation hadn't changed. Pockit were also advised that one of their documents was unable to be read and if they wished to resubmit it they should do so. Nothing further was received from Pockit.

Because no agreement could be reached, the complaint has now been passed to me for a decision. Mrs R later advised she'd also had a similar experience with another account (held elsewhere) relating to the provision of OTPs. She also reported that she'd received a suspicious call from a person purporting to be from Pockit and asking her about her account. Pockit were able to confirm they hadn't called Mrs R.

### **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.

When Pockit were made aware of the problem by Mrs R, they chose to use the chargeback system to challenge the payment. They declined to process the chargeback once they identified the OTP had been recorded in their system. They advised Mrs R that this second level of authorisation meant that any chargeback challenge would fail. Whilst that may well be the case, Pockit are also required to take the Payment Service Regulations 2017 (PSRs) into account, which is the relevant law related to authorisations.

The basic position is that Pockit can hold Mrs R liable for the disputed payments if the evidence suggests that it's more likely than not that she made them or authorised them, but Pockit cannot say that the use of Apple Pay conclusively proves that the payments were authorised.

Unless Pockit can show that consent has been given, it has no authority to make the payment or to debit Mrs R's account and any such transaction must be regarded as unauthorised. To start with, I haven't seen sufficient evidence related to the authentication of the disputed payments.

Pockit were asked on several occasions to provide relevant evidence to support their case that the payments were authorised by Mrs R. They've provided some details related to Mrs R's account, but little that relates to the payments she's disputed. I haven't seen anything about which device made those payments or how Mrs R could have given consent. Pockit have relied on an OTP that they say was sent to Mrs R which was then used to register Apple Pay on another device.

I've examined that evidence and compared it to Mrs R's own evidence which shows nothing was received from Pockit on the day they sent it. I can't reliably say what happened here, but given that Mrs R also experienced a problem with another provider related to the same issue, it does appear there's some evidence to support her complaint that she was unaware of the OTP.

Taking the pattern of transactions into account and the many failed attempts to take more funds from the account, it suggests that someone had managed to register another device

on Mrs R's account and proceeded to try and empty it. When considering the suspicious call she also received purporting to be from Pockit, it seems to me that Mrs R was the victim of a sophisticated fraud. Given Mrs R also confirms not passing anything (codes or OTPs) to anyone or allowing anyone else to use her account, I don't think that Pockit have been able to provide enough evidence to hold Mrs R liable for these transactions. So, on balance, I think it's more likely than not that Mrs R wasn't responsible for these transactions.

### **Putting things right**

That means those transactions are regarded as unauthorised, and Mrs R is due a refund of the full amount she disputed being £1,025.34 plus interest based on the loss of use of those funds at 8% per annum (simple).

I also think Pockit acted unfairly here by their handling of this complaint. Whilst I accept that Pockit themselves didn't cause the loss of her funds, their approach to the dispute led to unnecessary stress, inconvenience caused to Mrs R. Accordingly, they should pay Mrs R £150 to recognise the additional impact their handling had on her.

### **My final decision**

My final decision is that I uphold this complaint against PSI-Pay Ltd and in order to settle it they're now required to :

- Refund Mrs R £1,025.34.
- Pay additional interest from the date of loss to the date refunded at 8% per annum (simple).
- If PSI-Pay Ltd considers that it is required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mrs R how much it's taken off. It should also give Mrs R a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.
- Pay Mrs R £150 for the distress and inconvenience caused to her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 30 March 2025.

David Perry  
**Ombudsman**