

The complaint

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

Mr H, who is a director of C, brings the complaint on C's behalf.

What happened

Mr H explained he received several calls that appeared to come from Cashplus. He was told that suspicious transactions had been made on C's account, which they'd sort out. Mr H recalled sharing some information for them to do this.

Mr H later realised he'd been the victim of a scam and that fraudsters had made the following payments from C's account:

Merchant	Amount
KINGSLANDLOCKE	£254.00
Industries S.P.A.	£2,695.57
FORX Industrie	£80.60
BITPANDA	£888.13
Quasi Cash Transaction Fee	£3.00

Cashplus declined to refund all the payments, given that Mr H must have shared one-time passcodes (OTPs) with the fraudster for them to be made. It did, however, refund the transaction for £254.00 as this happened without an OTP.

Unhappy with this response, Mr H brought a complaint to our service to investigate on C's behalf.

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:

- Cashplus hasn't disputed this concerns unauthorised payments. However, in line with the Payment Services Regulations 2017, it refused to refund them because it asserts Mr H failed with gross negligence to comply with the terms of the account and keep C's personalised security details safe.
- Having considered the circumstances carefully, I'm not persuaded Cashplus has shown that's the case. I'll explain why.
- Mr H explained he received calls that appeared to come from Cashplus, and the caller knew information about C. They told him there were suspicious transactions on C's account and they asked if he recognised them. When Mr H said he didn't, the

caller said they'd block and refund the payments. They later explained there were technical difficulties refunding C and they'd call back later that day. When they did, Mr H was told he'd need to share an OTP he'd receive by text to refund the transactions.

- Mr H said he received a further call a few days later that similarly purported to be from Cashplus about a further fraudulent transaction. While Mr H told our service he only shared one OTP, I've noted that when he reported this scam to Cashplus, he said he shared another OTP to refund this transaction as well. Given that the technical evidence shows an OTP code was used, and there's no other explanation for how fraudsters would've got this, I think it's likely Mr H did share this.
- In light of these circumstances, I'm not persuaded Mr H's actions in sharing the OTPs meant he failed with *gross* negligence. Or, in other words, that he acted with a *very significant* degree of carelessness. In saying that, I've considered:
 - The call appeared to come from Cashplus's number, and the caller knew sensitive information about C. So I can see how Mr H trusted they were calling from C's bank. I think lots of people would've done.
 - The situation they presented seemed plausible, given how the first fraudulent transaction had already been made without Mr H's involvement as it didn't require an OTP.
 - I recognise Mr H recalled seeing two transactions before he shared the first OTP. Cashplus point out this couldn't have happened, as an OTP was needed for the second transaction.
 - But I don't think it's suspicious that Mr H can't perfectly recall the exact details of what happened. And whether it was one or two transactions, the point remains that he could corroborate some of what he was being told on his banking app. Overall, I can see how this would've added to the calls' creditability.
 - I've also noted that it looks like another one of the unauthorised transactions for £80.60 could've happened during these first calls – given that the reference refers to the date of the call. Cashplus hasn't shown that an OTP was needed for this transaction, so it's possible this was the second transaction Mr H was referring to.
 - I've considered Cashplus's point that the messages with the OTPs refer to verifying a payment, and how this ought to have concerned Mr H. But I can see how someone could think this language was connected to refunding a payment. Particularly in these circumstances, where Mr H said the caller cleverly reassured him that the process was like how you might use your security details in a shop for a refund.
 - I'm also mindful of how Mr H would've been further convinced by the timing of these messages. He believed he was talking with his bank and the messages with the OTPs came through from Cashplus when he'd been told to expect them.
 - Cashplus also submit Mr H shouldn't have shared a second OTP on another call when he'd not received refunds from the first transactions. I've noted from Mr H's testimony that he was told the money would be there when he

received his new card and reactivated C's account. And that this fraudulent transaction was from before they'd been able to block the account.

- I can see how he found this explanation plausible in the heat of the moment. And given the other circumstances that had cleverly convinced Mr H the call was legitimate, I don't think he acted with *very significant* carelessness when he shared another code.
- It follows that I'm not persuaded Cashplus has shown Mr H failed with gross negligence. So, in line with the PSRs, I don't consider C can be fairly held liable for these unauthorised payments and Cashplus needs to put things right – by refunding C's losses from the unauthorised payments alongside 8% simple interest per year to compensate it for the time it's been out of pocket.

My final decision

For the reasons I've explained, I uphold C's complaint. Advanced Payment Solutions Limited must:

- Pay C the total of the unauthorised payments and fees, less any amount recovered or refunded – I understand this to be £3,667.30.
- Pay 8% simple interest per year on these amounts, from the dates 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 C to accept or reject my decision before 9 August 2023.

Emma Szkolar
Ombudsman