

The complaint

Mr S complains that PayrNet Limited is holding him liable for payments he didn't authorise. He is also unhappy it closed his account.

Mr S held a Pockit branded account – who provided services on behalf of PayrNet. For ease, I'll mainly refer to Pockit in my decision, but it is PayrNet Limited who ultimately holds responsibility for this complaint.

What happened

Mr S received a call in October 2022 from someone claiming to be from Pockit – which he thought seemed legitimate due to the details they knew about him and the account. They told him there had been fraudulent activity on his account, so he needed to update his password etc. to secure the account – which he did during the call.

Mr S says that, as part of the call, he was also told Pockit would be sending him a text message to confirm the contact was genuine. And he had to read out a number/code over the phone as part of this verification.

Around one month later, three payments were taken in quick succession from Mr S's account. Mr S says these payments – totalling around £330 – weren't made by him. So he complained to Pockit that they had been taken without his consent.

Pockit didn't agree to refund Mr S. It said the payments had been made using a 'trusted' device, as verified by a One Time Passcode (OTP) sent to the number it held for Mr S. It did pay £100 compensation for delays responding to Mr S.

Unhappy with how it had responded to his concerns, Mr S referred the matter to our service – having also expressed dissatisfaction to Pockit that it went on to close his account. Our investigator didn't think Pockit had acted unfairly in closing Mr S's account, and considered the compensation for the service issues to be fair. But she thought Pockit should refund Mr S for the transactions.

The investigator thought Mr S had likely been tricked into sharing the OTP during the call he had mentioned, not realising it would enable another device to access his account. She didn't think he had authorised the payments, nor did she think they had been made due to a failure of intent or gross negligence on his part. She noted the caller had known details about the account, which helped persuade Mr S they were legitimate. And the scenario was particularly worrying for him due to having money stolen from an account previously by his ex-partner.

Pockit originally responded to the investigator's outcome, providing some further information we had asked for previously about the payments. The investigator explained this didn't affect her outcome. Pockit then requested for the case be reviewed by an ombudsman.

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 decided to uphold it. I'll explain why.

In explaining my decision, I do acknowledge there are some points about what happened that are not completely clear. But I'm making my decision on the balance of probabilities. So I don't need to know exactly what happened. Rather, I'm using the available information to decide what's *more likely* to have happened.

Under the Payment Service Regulations 2017 (PSRs), Mr S would generally be liable for authorised payments made from his account, and Pockit would generally be liable for unauthorised payments.

Mr S maintains he didn't authorise these payments. Despite asking for a final decision, I can't see Pockit has explained what about the investigator's outcome/reasoning it disagrees with. But my understanding from its initial response to Mr S is that it thinks the payments were authorised, on the grounds they were made from a trusted device added to the account several weeks prior.

Having weighed up all the information that has been provided, I've concluded Mr S likely didn't authorise these payments. I don't think he made the payments – nor do I think he gave someone else consent to do so. In line with the PSRs, that consent would need to be given in the form, and in accordance with the procedure, agreed between Mr S and Pockit.

Mr S says he received a call claiming to be Pockit, alleging his account was at risk. Thinking he was dealing with Pockit, he was tricked into amending and sharing his password details along with an OTP. The scammer used these details to access his account and complete the payment steps. But Mr S didn't give consent, in the agreed form and procedure, for the caller to make payments on his behalf. He thought he was speaking to Pockit, and that he had to follow their instructions to secure his account. He didn't know this would allow access to make payments.

It does seem a bit unusual that the payments were taken several weeks later. But as the investigator explained in her outcome – which Pockit hasn't refuted – it appears this may have been because there wasn't (much) money available in the account. The payments taken occurred on the same day when the account was topped up with around £330. So, it seems plausible the scammer maintained access to the account, and then made the payments when there were sufficient funds available.

There is further evidence which supports this conclusion. First of all, Mr S has been consistent with us and Pockit about what happened. I've no reason to doubt his recollection. Pockit has also confirmed the IP address used to make the payments he is disputing hasn't been used to make any other, undisputed payments. Overall, I consider it more likely the payments were unauthorised.

In line with the PSRs, that means Pockit is liable for the payments unless Mr S failed with intent or gross negligence to comply with the terms of the account or keep the account security details safe.

I don't think Mr S intentionally failed to keep his account details safe. He thought he was speaking to Pockit – so didn't realise that sharing details with the caller would put his account at risk.

Nor do I think Mr S failed with gross negligence. I can see why he believed the call was from Pockit, as claimed, due to the details they knew about the account. He was put under pressure by being told his account was at risk. Particularly in the context of having been the victim of fraud previously. In the circumstances, I can see why he thought he needed to follow the caller's instructions to protect his account.

I'd also point out that, despite several requests, Pockit hasn't shown us what the OTP message looked like. So, I don't have reason to think there was anything in that message which ought to have put Mr S on notice of an *obvious* risk the caller wasn't from Pockit. I'm also mindful he was in stressful circumstances and had been primed to expect a message.

Overall, I don't think Mr S showed serious disregard of an obvious risk. I think lots of people would have been tricked in these circumstances. So, in line with the PSRs, I think Pockit should refund Mr S for these transactions.

I don't think Pockit needs to do anything further regarding the account closure or service issues surrounding the claim. Pockit has already paid £100 compensation to Mr S, and I think that fairly reflects any unnecessary upset caused by Pockit in relation to the issues complained about. Such as the delays responding to his fraud claim.

The account terms do allow Pockit to close an account "at its discretion" due to abuse of staff. I understand why Mr S was upset by what happened, but I do think his language and contact with Pockit became abusive. Pockit issued him a warning prior to closing the account due to repeated incidents. And it took measures such as removing restrictions to allow Mr S to make other arrangements to minimise the inconvenience. So I don't think it needs to do anything further to address this issue.

My final decision

For the reasons given above, my final decision is that I uphold this complaint. PayrNet Limited should refund Mr S for the disputed transactions (less any amounts already recovered or refunded). And it should pay 8% simple interest per year on this amount, from the date of payment to the date of settlement (less any tax lawfully deductible).

PayrNet Limited must pay the compensation within 28 days of the date on which we tell it Mr S accepts my final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 7 March 2024.

Rachel Loughlin
Ombudsman