

The complaint

Mr T complains that NewDay Ltd trading as John Lewis Partnership Card (NewDay) failed to cancel a continuous payment authority on his credit card when he asked them to.

What happened

Mr T had agreed a recurring payment on his credit card with a property maintenance company. The agreement was in place so when they completed work, they could debit his card for work they carried out.

Mr T wanted to stop the agreement as he was unhappy with the way this was working. So, he called NewDay to do this. The call took place on 5 April 2023.

In the call NewDay said they couldn't help him to cancel this as it wasn't possible from their end and that he would need to contact the merchant and ask them to stop the agreement. Mr T did this by calling the merchant, they told him they would stop the agreement. However, on 9 April 2023 three further payments were made to the merchant for £2,061, £950.40 and £720.

Mr T complained to NewDay about this, he told them he had looked into matters and found that they had given him incorrect advice on the call, and they should have helped him to cancel the recurring payment.

NewDay upheld Mr T's complaint saying they were sorry he received poor service and credited £45 to his account to recognise this.

Mr T remained unhappy and brought his complaint to this service, he said he thought NewDay should refund him for the payments that had been made after he tried to cancel the agreement.

Our Investigator thought Mr T's complaint was one that should be upheld. In summary she said:

- NewDay gave Mr T the incorrect information and they should have made an attempt to cancel the payment authority as per Mr T's request, with the caveat that it may not be successful.
- NewDay's terms and conditions say Mr T could cancel the payment authority with them up to one business day before a payment was due to come out.
- The Payment Service Regulations say that a business should reimburse their customer if there has been any delay or error on their part.
- To put things right NewDay should reimburse Mr T for the three payments that followed his request to cancel.

Mr T agreed with the investigator's findings.

NewDay didn't agree, they said it can take up to five working days for a merchant's details to be uploaded to the systems, so they wouldn't have had enough time to do this. They also said as the dates and amounts varied it would have been difficult for them to add them to the "stop list" and they would always advise the customer to go to the merchant in the first instance.

As no agreement has been reached the matter has now been passed to me to decide.

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.

I realise that I've summarised this complaint in less detail than the parties and I've done so using my own words. I've concentrated on what I consider to be the key issues. The rules that govern this service allow me to do so. But this doesn't mean that I've not considered everything that both parties have given to me.

The terms and conditions of Mr T's account state:

<i>Ways you can use your account</i>	<i>How do you authorise transactions?</i>
<i>Making regular, for example monthly, payments to a supplier. This could be a gym membership or TV packages or insurance</i>	<i>Provide your card details to the supplier. It is important to remember if you want to cancel the payment you must let us know this. You may withdraw your authorisation at any time up to the end of the business day (3pm Monday to Friday except English Bank Holidays) before the recurring transaction or other regular payment is due to be paid. We will use our best efforts to stop these transactions from being charged to your account but as the supplier initiates these transactions you should let the supplier know that they should stop doing this. If a regular payment is taken after you have withdrawn your authorisation, we will refund the amount together with any related interest and charges.</i>

The Payment services regulations say, that provided a customer tells their payment provider in advance, the provider should stop the payment.

The Financial Conduct Authority also advises consumer's on its website that it is their right to cancel continuous payment authorities directly with their card issuer.

NewDay told Mr T when he called them, that they couldn't cancel recurring payments and that he should contact the merchant, which he did. But this is different to what the regulations and their own terms and conditions say. So, I think it's clear NewDay gave Mr T the incorrect advice here and didn't do what they should have done to assist him.

NewDay have since argued that they couldn't have done it as they may not have been successful in stopping the payment. They have also said that it could have taken up to five days to put the merchant onto the stop list.

I've thought about that, and I don't think that means NewDay didn't need to try. Their own terms and conditions say payments can be cancelled up to the end of the business day before the payment. And As well as *"we will use our best efforts to stop these transactions"* and go on to say, *"If a regular payment is taken after you have withdrawn your authorisation, we will refund the amount together with any related interest and charges."*

Given all of the above I think NewDay should have attempted to stop any payments from the merchant using their best efforts. They should have explained this to Mr T with the caveat that the payments may still reach his account and that if they did, they would be refunded to him. Mr T would still have been liable for any money owing to the merchant but that would be between him and the merchant.

As NewDay didn't do this they have left Mr T in the position where he has ben debited for payments he didn't authorise. I say this because it was clear when Mr T called NewDay that he was withdrawing his authority for payments to be taken by this merchant. So, NewDay now needs to put that right in line with the regulations mentioned above and its terms and conditions.

Putting things right

NewDay should Now:

- Reimburse Mr T for the three payments made to the merchant after his request to cancel, totalling £3,731.40
- They should add 8% simple interest to this from the date Mr T paid his credit card bill until the date they reimburse him.

†Her Majesty's Revenue & Customs may require that NewDay deduct tax from the interest paid to Mr T. If it does and he requests it, NewDay must provide him with a certificate showing how much tax it has taken off, so he may reclaim it if appropriate.

My final decision

For the reasons set out above, my final decision is that I uphold this complaint and now require NewDay Ltd trading as John Lewis Partnership Card to carry out the actions as set out under the 'Putting things right' section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 22 March 2024.

Amber Mortimer
Ombudsman