

## The complaint

Mr C complains that Starling Bank Limited (“Starling”) declined a direct debit (“DD”) indemnity claim he submitted going against the direct debit guarantee.

## What happened

Mr C signed a lease purchase agreement and direct debit instruction with a merchant (the “originator”) in March 2016. Nine DD payments were taken by the merchant between March 2016 and November 2019.

Mr C submitted an indemnity claim to Starling regarding this DD authority for this period as he believed there had been an error as the merchant failed to give advance notice of the due date before payments were debited from his account. Mr C provided Starling with the lease purchase agreement and direct debit instruction as supporting evidence of this.

There wasn’t a section on the direct debit instruction to include dates or amounts, but the merchant advised:

*“If there are any changes to the amount, date or frequency of your Direct Debit...will notify you ten working days in advance of your account being debited or as otherwise agreed. If you request ... to collect a payment, confirmation of the amount and date will be given to you at the time of the request.*

*If an error is made in the payment of your Direct Debit, by ... or your bank or building society, you are entitled to a full and immediate refund of the amount paid from your bank or building society.”*

On reviewing Mr C’s evidence Starling declined the claim as it was unable to see that an error had occurred with his DD payment.

Mr C complained to Starling about this. Starling says as it couldn’t determine an error had occurred it was within its rights to decline Mr C’s claim. Starling explained that it required evidence from the merchant which confirms an error with the DD payment and although advance notice isn’t provided in the lease purchase agreement, advance notice was given via the documentation attached to his welcome guide including the date the first DD payment will be taken. If Mr C can provide some evidence from the merchant stating that the payment was taken in error it can review its decision.

Mr C was dissatisfied with this and brought his complaint to this service. He says the direct debit guarantee states clearly that the date of the direct debit must be listed on the agreement, under the advance notice procedure and as he was never provided a date the merchant broke the terms of usage and so Starling should raise the direct debit indemnity claim.

One of our investigator's looked into his concerns but didn't think Starling had treated him unfairly by asking for further evidence before processing Mr C's DD Indemnity. They agreed that the direct debit guarantee advanced notice procedure says you'll get advance notice of the amount and date of a direct debit from the company you're paying, but it doesn't say it has to be specifically mentioned as part of an agreement and can come in multiple forms and as such Starling had no reasonable choice than to request additional evidence that the merchant had provided him with incorrect information relating to Mr C's direct debit dates.

Furthermore, they thought there could be adverse consequences for both the customer and Starling if it raised DD Indemnity's without sufficient supporting evidence. In particular, Mr C could face legal action against him from the merchant to recover its payments as the DD guarantee doesn't affect the contract he had with the merchant and Starling could face repercussions from its regulator. Our investigator suggested Mr C contact the merchant directly with the issues he had.

Mr C disagreed and has asked for an ombudsman's 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.

I hope that Mr C won't take it as a discourtesy that I've condensed his complaint in the way that I have. Ours is an informal dispute resolution service, and I've concentrated on what I consider to be the crux of the complaint. Our rules allow me to do that. And having considered everything provided, I'm in agreement with our investigator and don't think there is anything much more of use I can add.

My role is to look at the problems Mr C has experienced and see if Starling has done anything wrong or treated him unfairly. If it has, I would seek – if possible - to put Mr C back in the position he would've been in if the mistakes hadn't happened. And I may award compensation that I think is fair and reasonable.

As outlined above Mr C is unhappy that Starling refused to process a refund of all DD payments made between March 2016 and November 2019 under the direct debit guarantee. He says the merchant made an error as it failed to provide advance notice of the date the DD payment would be taken on the DD instruction or lease purchase agreement.

It might be helpful here to explain that the direct debit guarantee entitles account holders to receive an immediate refund from their bank in certain circumstances such as when the payment taken is on the incorrect date or the wrong amount is collected. And it cannot be used to address contractual disputes between the customer and the billing merchant and nor does it affect the contact the customer has with the merchant. So whatever refund a customer may receive under the guarantee doesn't mean they won't still be liable for that money to the merchant.

The purpose of this guarantee is to protect customers who've allowed third-party permission to take payments directly from their account. If a payment error is made – either by the bank or by the business collecting the payment – then they should be able to get an immediate refund from the bank. And the bank will get repaid by the business under the direct debit indemnity.

So the question I have to ask is whether Starling has done anything wrong or treated Mr C unfairly by not submitting a direct debit indemnity claim when Mr C asked it to.

And I don't think Starling did treat Mr C unfairly - as it wasn't able to establish from the information it had whether there had been a payment error. Indeed, Mr C had signed a lease purchase agreement with the merchant agreeing to pay by DD and had paid for this nine times over a period of three years. So I don't think it was unreasonable or unfair of Starling to seek further information to ensure the scheme was being used for its intended purpose or for declining to process the DD indemnity on the basis that lack of a date on the instruction wasn't enough to show that there had been an error.

Mr C says the direct debit guarantee states clearly that the date of the direct debit must be listed on the agreement, under the advance notice procedure and as he was never provided a date the merchant broke the terms of usage and as such Starling should process the DD Indemnity.

But while the DD Guarantee does state:

*"You'll get advance notice of the amount and date of a Direct Debit from the company you're Paying..."*

It doesn't say how this notice should be given but rather:

*"...This is usually in the form of a bill but could be a simple letter, text or email note if, for example, you've signed up to pay for something in instalments; it is the biller's responsibility to send the communication via the channel you have agreed with them. To note, missing the communication is not grounds for a refund. "*

So I can't say that on the information Starling had it had enough to come to the conclusion that the merchant had made an error in that it hadn't provided advance notice of the DD amount or date and that it should've raised the DD Indemnity without requesting further evidence or that it made a mistake in doing so.

And so it follows that I do not uphold this complaint.

### **My final decision**

For the reasons I've explained I've decided not to uphold Mr C's complaint against Starling Bank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 5 August 2024.

Caroline Davies  
**Ombudsman**