

## **The complaint**

S complains that WorldPay (UK) Limited has charged it monthly Payment Card Industry Data Security Standard (PCI DSS) non-compliance charges since July 2017 and didn't do enough to make it aware of these charges or help it to become compliant.

S is represented in bringing this complaint to us by one of its directors, Mrs C.

## **What happened**

S is a merchant who has held an account with WorldPay since 2014. Mrs C queried charges to S' account which were being applied monthly, and WorldPay logged a complaint on S' behalf.

WorldPay responded to S' complaint in October 2023 explaining that these charges related to PCI DSS compliance which is a mandatory requirement for all retailers designed to ensure that all companies that process, store, or transmit card information maintain a secure environment.

WorldPay said it wouldn't uphold the complaint or refund the charges, as PCI DSS was a set requirement from the card schemes, and it had taken Mrs C a long time to query what the charges were for despite them appearing on S' monthly statements.

WorldPay did however concede that S had been paying for a service called SaferPayments whose role was to pro-actively contact merchants to assist with ensuring they were compliant.

WorldPay noted that S hadn't received any contact from the SaferPayments team regarding its compliance, so they refunded the SaferPayments management fee applied to S' account between October 2022 and October 2023.

Mrs C was unhappy with this outcome, so she brought S' complaint to our service. However, Mrs C complained to us about non-compliance charges applied to S' account since inception, as opposed to January 2019 which was the date given in the final response letter from WorldPay.

One of our investigators looked into the matter. He said there were elements of the complaint that our service couldn't consider, and he needed to address them separately. He explained we couldn't consider charges applied to the account more than six years before the complaint was made in October 2023. Nor could he consider a complaint about the invoices between November 2017 and 2018 as S hadn't complained to WorldPay about the

charges it incurred during this period. And he thought WorldPay were right to apply the non-compliance charges when they did, in respect of the dates our service could consider, so he didn't ask WorldPay to do anymore.

Mrs C didn't agree. She said S's complaint was about all non-compliance charges applied to S' account since inception, so it wasn't true that WorldPay hadn't received a complaint about

that period. Mrs C said that whilst some of the charges were applied more than six years before S complained, she didn't think she knew or ought to have known that S had cause for complaint more than three years earlier as she only became aware of these charges in September 2023 when a representative of WorldPay made her aware of the charges during a phone call.

In addition, Mrs C didn't think WorldPay refunding the SaferPayments between October 2022 and October 2023 was enough to settle the matter. As such, our investigator passed the complaint to me to decide.

I agreed with some of our investigator's findings but not at all of them, so I issued a decision on our jurisdiction for part of the complaint. My findings on our jurisdiction were different to those of our investigator and I agreed that we could consider all non-compliance charges applied to S' account since October 2017. However, I agreed with our investigator that for any charges prior to October 2017, the complaint had been made too late – outside the time limits this service must follow so I don't have the power to consider them.

I then attempted to resolve the rest of the matter informally, but this was unsuccessful as Mrs C thought that my calculations were incorrect and that all non-compliance charges applied to the account should be refunded to S. I subsequently provided Mrs C with a spreadsheet of my calculations but she didn't provide any further comments for me to consider before issuing my final decision on the matter.

### **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've reviewed the charges applied to S' account since October 2017 and what they were for. S was charged PCI DSS non-compliance fees between October 2017 and October 2018 and again between October 2022 and October 2023.

S was also charged for the SaferPayments service between January 2021 and October 2023. I note that the role of the SaferPayments team was to proactively contact S and support it to ensure it understood what needed to be done to ensure it was PCI DSS compliant.

WorldPay accepted in their final response letter to S, dated 20 October 2023, that no contact had been made with it by their SaferPayments team. So WorldPay provided a full refund of the SaferPayments management fee applied to S' account between October 2022 and October 2023, which amounted to a total of £120.00 plus VAT.

However, I think it should've been the non-compliance charges as opposed to the SaferPayments charges that were refunded to S. I say this as I think it is unlikely S would've ever incurred the non-compliance charges had the service it was paying WorldPay for been provided.

As such, I think WorldPay should refund the PCI DSS non-compliance charges to S for the period between October 2022 and October 2023 in place of the SaferPayments charges.

I've gone on to consider the PCI DSS non-compliance fees charged to S between October 2017 and October 2018. The SaferPayments service wasn't in place during this period so my thoughts on whether the charges were applied fairly and reasonably during this period differ from what I've said above.

The terms of S' Merchant Agreement with WorldPay confirms under Schedule 4: Technical Services 1.3, "*you remain responsible for your own compliance with PCI SSC rules, regulations and/or standards as required of you respectively, directly or indirectly, by applicable Network Rules making bodies*". So, I think the non-compliance charges were fairly applied during this period in line with the terms of the agreement between S and WorldPay.

In addition, the charges were detailed on every monthly invoice WorldPay provided to S, so I think they should've been reasonably aware that this charge was being applied. As such, I won't be asking WorldPay to refund any charges applied to S' account for non-compliance between October 2017 and October 2018.

However, I think WorldPay have caused inconvenience to S through their inconsistent service, so WorldPay should pay a further £100 to S in recognition of this inconvenience.

### **Putting things right**

WorldPay should settle this complaint in the following way:

1. The PCI DSS Non-Compliance fees charged between October 2022 and October 2023 should be refunded to S. I calculate this to be 11 months @ £15 and 2 months @ £22.50 so £210 plus VAT. The £120 plus VAT already refunded to S for the SaferPayments charges should be deducted from this amount, so the amount due will be £90 plus VAT.

2. A payment of £100 should be made to S for the inconvenience this lack of service from WorldPay has caused it.

### **My final decision**

I uphold this complaint in part and instruct WorldPay (UK) Limited to make a further payment of £90 plus VAT to S to settle the matter, in addition to a payment of £100 to acknowledge the inconvenience they have caused to S.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 2 August 2024.

Tara Richardson  
**Ombudsman**