

The complaint

Mr W complains that NewDay Ltd didn't do enough to assist him in recovering money he paid on his credit card for a seafood meal.

The transaction in dispute was paid for by Mr W's wife, as a secondary card holder. Mr W is also being assisted in bringing this complaint by his daughter. But for ease of reading I'll refer to any actions or submissions by Mr W, his wife, or his daughter as being from Mr W.

What happened

On 14 September 2023 Mr W purchased a seafood meal from a trader that I will call "M". Mr W says that the cost of the seafood meal was £15.00 but he authorised his credit card, in error, to be debited with £558.49.

Mr W says on discovering what he had done, which was almost immediately, he tried to resolve matters with M but was unable to do so.

On 18 September 2023 Mr W phoned NewDay to ask it to assist him with recovering the sum of £543.49 he had overpaid M, in error, for his seafood meal.

On 22 September 2023 NewDay emailed Mr W to advise him that it was unable to assist him.

On 27 September 2023 Mr W emailed NewDay to complain about its advice that it was unable to assist him.

On 31 October 2023, and having heard nothing further from NewDay, Mr W referred his complaint to our service.

On 29 November 2023 NewDay issued Mr W with a final response letter ("FRL"). Under cover of this FRL NewDay said it wasn't upholding Mr W's complaint on the grounds that in the absence of a receipt from him showing that the seafood meal cost £15.00 (rather than £558.49) it had acted entirely reasonably in not raising, on Mr W's behalf, a chargeback.

Mr W's complaint was considered by one of our investigators who came to the view that it should be upheld and that NewDay should pay Mr W £543.49.

Mr W agreed with the investigator's view but NewDay didn't. In disagreeing with the investigator's view NewDay said it didn't "*accept [it should have to pay Mr W] £543.49 due to insufficient evidence being provided [in respect of] the goods purchased and the price charged.*"

Because NewDay disagreed with the investigator's view Mr W's complaint has been passed to me for review and 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.

The investigator concluded that NewDay could and should have raised a chargeback on Mr W's behalf and that the appropriate grounds for doing so would have been that there had been a point-of-interaction error.

The relevant chargeback scheme here is Mastercard which provides the following guidance:

Point-of-Interaction Error

A point-of-interaction error chargeback may be submitted when the cardholder contacted the issuer alleging one of the following:

- ...
- *The cardholder was billed an incorrect amount.*
- ...

Transaction Amount Differs

Chargeback Condition

The cardholder contacted the issuer claiming the cardholder was billed an incorrect amount.

Time Frame

...within 90-calendar days...

Supporting Documents

...both of the following:

- *A cardholder letter, email, message or completed Dispute Resolution Form—Point-of-Interaction (POI) Errors (Form 1240) describing the cardholder's complaint in sufficient detail to enable all parties to understand the dispute, including the transaction amount that should have been billed.*
- *Documentation detailing the correct transaction amount. Examples include, but are not limited to:*
 - *A receipt or invoice including the correct transaction amount*
 - *The final hotel or car rental bill*
 - *Merchant email confirming price*

I accept that in many cases, if not most, a receipt or invoice including the correct transaction amount is something that an issuer would need, from its cardholder, to raise a chargeback on the cardholder's behalf. But as pointed out by the investigator the Mastercard chargeback guidance doesn't state that that this is always, or necessarily, required for an issuer to be able to raise a chargeback on its cardholder's behalf.

Mr W submits that he should have been charged £15.00 for the seafood meal he purchased.

Given Mr W's submission in this respect I find it entirely reasonable that he wouldn't have been provided with a receipt, or that he would have thought to request one. So the first thing for me to say is that Mr W being unable to provide a receipt doesn't surprise me.

Just because I'm not surprised that Mr W was unable to provide NewDay with a receipt doesn't, in itself, mean that NewDay should have raised a chargeback. But I think it should have done when my lack of surprise that Mr W was unable to provide a receipt is considered in conjunction with the following:

- Mr W's explanation as to why, or how, he came about to authorise a payment of £558.49, an explanation I find to be both plausible and persuasive
- how quickly Mr W says he tried to resolve matters with M
- what Mr W says was M's refusal to engage with him in respect of the matters he had raised with it
- how quickly Mr W contacted NewDay to ask it for help in securing a refund from M
- that Mr W raised the matter with the police
- that Mr W has been able to provide photographs which shows that M sells seafood meals costing £15.00 a portion suggesting a that he shouldn't have been charged a sum ending in 49 pence
- it doesn't seem plausible that Mr W would have ordered and received 37 or 38 seafood meals, which is what would have needed to happen to arrive at a figure of, or close to, £558.49 at £15.00 a seafood meal

In other words I'm satisfied that in the particular circumstances of this case although a receipt would have added weight to any chargeback made by NewDay it wasn't necessary or needed for one to be raised and one should have been raised.

Having concluded that NewDay should have raised a chargeback the next thing for me to decide is whether such a chargeback would have succeeded.

While I can't be certain what would have happened had a chargeback been raised, and where relevant pursued (including through to arbitration), based on everything I've seen (and what I say above) I think it's more likely than not had a chargeback been raised it would have been, more likely than not, successful.

Having concluded that had NewDay raised a chargeback it would have been successful the next thing for me to decide is what NewDay should have to do to fairly and reasonable compensate Mr W.

Having thought about this point very carefully I find that I'm in agreement with the investigator that NewDay should pay Mr W £543.49, this sum being the difference between the sum Mr W paid (of £558.49) and what he says the cost of the seafood meal he purchased was (£15.00).

My final decision

My final decision is that NewDay Ltd must pay Mr W £543.49.

NewDay Ltd must pay the sum of £543.49 within 28 days of the date on which we tell it Mr W accepts my final decision. If NewDay Ltd pays later than this it must also pay interest on the sum of £543.49 from the date of my final decision to the date of payment at the rate of 8% simple per year.

If NewDay considers it's legally required to deduct income tax from the interest I've mentioned above, it must send a tax deduction certificate with the payment so that Mr W can reclaim the tax if he is able to.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 18 December 2024.

Peter Cook
Ombudsman