

The complaint

A company, which I will refer to as C, complains that GoCardless Ltd caused C to lose £5,172.54 by colluding with the fraudulent and illegal actions of another party.

C is represented by an adviser, who I will refer to as Mr L.

What happened

GoCardless offers a service which allows merchants like C to receive payments from their customers through the Direct Debit scheme and Open Banking. C used that service to receive payments from its customers.

Mr L told us that C entered into a contract to supply and deliver goods. I will refer to the other party to that contract as C's customer.

The goods were all delivered, which meant that C's customer was required to pay C £5,172.54. The payments were initially made as agreed, by a person I will refer to as the payer, but were later deducted from C's account with GoCardless. Mr L considers that in allowing these deductions, GoCardless is complicit in fraud.

(I do not know whether the payer and C's customer were the same person. It is clear that Mr L believes that C's customer is also the payer, and that the customer/payer has committed fraud against C. The evidence available to me does not confirm that C's customer is also the payer. But for reasons I will go on to explain, I do not need to decide whether the payer and C's customer were the same person in order to decide this complaint against GoCardless.)

GoCardless told us that it received chargeback claims* in respect of all 36 of the payments the payer had made to C. In each case, the payer said they had not given authority for the direct debit to be paid. (*Technically these chargebacks were Direct Debit Indemnity claims, but C and GoCardless have both referred to the claims as chargebacks so I have done the same for consistency).

The first claim was made in October 2023 in respect of 21 payments, the second in January 2024 in respect of 13 payments, and the final one in February 2024 in respect of the two remaining payments. GoCardless and Mr L agree that GoCardless sent an email to C about each of those claims, and that C replied to all of those emails together in August 2024.

GoCardless told us that all of the payer's direct debits were covered by the Direct Debit Guarantee, which entitles the payer to a full and immediate refund if an error is made in the payment of the direct debit. In this case, the payer told its bank(s) that there had been an error, and that it had not given authorisation for the payment in the first place. Each time, that meant the paying bank returned each of the disputed payments to the payer immediately, and funds were collected by the paying bank from GoCardless's account. GoCardless told us that the terms and conditions of C's account with it mean that it is entitled to recover the £5,172.54 from C.

GoCardless also told us that the decision to allow the chargeback was made by the payer's bank (or banks), and not by GoCardless. GoCardless had no opportunity to dispute the claim before the funds were deducted. C did not dispute the claim with GoCardless until August 2024, which was far too late for GoCardless to defend the chargeback.

One of our investigators looked at this complaint, but did not uphold it. He said that GoCardless had acted in accordance with the contract between C and GoCardless. He also said that it was ultimately the payer's bank(s) that made the decision on the chargebacks, so it wouldn't be fair for him to ask GoCardless to refund any of C's losses.

Mr L did not accept our investigator's conclusions. He said that a Magistrate's Court had confirmed that a crime had been committed, and he said that GoCardless was complicit in that crime. He also raised concerns about the quality of our investigator's investigation.

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 background to this complaint is complex, but I consider that the dispute between GoCardless and C is straightforward. Briefly, my findings are:

- GoCardless had no choice about whether the payer's bank(s) allowed the payer to raise a chargeback. That is an issue between the payer and its own bank(s), and is not something GoCardless had any ability to intervene in.
- GoCardless had no opportunity to defend the chargebacks after they had been raised. C did not reply to GoCardless's emails about the chargebacks until August 2024 – several months too late for GoCardless to have raised any challenge to the payer's bank(s).
- The contract between GoCardless and C makes clear that in the event of a successful chargeback, it is C and not GoCardless who is liable.
- In the circumstances, it would not be fair for me to ask GoCardless to refund any money to C, or to write off any debt.

I give more details about those findings below.

The Direct Debit Guarantee

Mr L has made some references to the "bank transfers" made by C's customer to C. But the payments were not bank transfers; they were direct debits. That means they were subject to the rules about direct debits, and not to the rules about other types of transfers such as faster payments.

One of the key features of direct debit payments is the Direct Debit Guarantee, which says:

"If an error is made in the payment of your Direct Debit, by the organisation [receiving the payment] 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."

That means that organisations which accept direct debits must also accept the risk that the payer will succeed in an attempt to charge back those payments. There is nothing GoCardless can do about that, it is simply the way the direct debit system works.

In this case, the payer claimed that they had not given permission for the direct debits to be set up. I don't know if the payer was telling the truth (and as I've said, I don't even know if the payer and C's customer were the same person). But GoCardless had no obligation – nor indeed any ability – to investigate the claims made by the payer. GoCardless is right to say that the payer's bank was responsible for deciding whether an error had been made. In this case, the payer's bank (and not GoCardless) accepted the payer's claim that they had not given permission.

GoCardless's obligations here were to apply the terms of the Direct Debit Guarantee, and to apply the terms of its contract with C. I am satisfied that that is what GoCardless did. The contract between C and GoCardless does indeed say that C is liable for chargebacks in these circumstances.

I should also explain that the fact a payer's direct debt is returned says only that the payer's bank is satisfied that there was an error with the direct debit. It does not mean that the payer's bank has come to any conclusions about whether the payer owes the recipient any money, and it does not prevent the recipient from suing the payer in court.

GoCardless' actions on receipt of the chargebacks

GoCardless's computer system automatically generated emails to tell C about the chargebacks in October 2023, January 2024 and February 2024. I have not seen those emails – GoCardless told us that it no longer retains them – but Mr L accepts that C received them. Mr L also says that C replied to all of those emails together in August 2024.

I can see that whether GoCardless attempts to challenge chargebacks depends in part on whether the merchant in question has signed up for a paid-for service that GoCardless calls Protect+. GoCardless says that C was offered the opportunity to sign up for Protect+ in 2023, but chose not to. However, regardless of whether C was signed up to Protect+, it would not have been possible for GoCardless to have challenged the chargebacks unless C had given GoCardless evidence that GoCardless could then pass on to the payer's bank(s). C did not even reply to GoCardless's emails until August 2024, and I agree with our investigator that GoCardless could not reasonably have raised a challenge to any of the chargebacks at that point.

I appreciate that from October 2023 onwards, C was trying to resolve the payment issues with its customer. I consider that was reasonable, and indeed I note that GoCardless tells merchants to try to resolve issues with their own customers. But GoCardless was bound by the rules associated with direct debits, including the Direct Debit Guarantee, and without evidence from C it could not have challenged the payer's bank(s)' decision to return the payer's funds.

Even if C had replied to GoCardless' emails earlier, and even if GoCardless had attempted to challenge the payer's bank(s)' decision to refund the payer, there is still no guarantee that anything would have happened differently. As I've said, I don't even know if the payer and C's customer were the same person – and if they were not, it is difficult to see what evidence C could have provided that would have satisfied the payer's bank(s). Even if the payer and C's customer were the same person, it is still possible that the payer's bank(s) would have accepted the payer's claim. That is simply not something GoCardless can control.

My role as an ombudsman

I want to stress that my role here is solely to consider the complaint C has made against GoCardless Ltd. I cannot consider any complaint that C has made, or intends to make, against its customer(s) or against anyone associated with C's customer(s).

To put it another way, my role is to consider whether C has been treated fairly by GoCardless. If C has been treated unfairly by another party – such as its own customer – I have no power to rectify that unfairness.

I am aware that C has taken legal action against its customer, and that although it has obtained a judgement in its favour it has so far been unable to recover any money. That is clearly a distressing situation for Mr L, but I cannot intervene in that dispute – nor can I direct GoCardless to intervene in C's dispute with its customer.

I am also aware that Mr L would like me to conduct a wide-ranging investigation into the background to this dispute. But I am satisfied that I do not need to do that in order to resolve C's complaint about GoCardless (and I have no power to even attempt to resolve any dispute C may have with anyone other than GoCardless). In particular I note:

- There has been some confusion about the identity of C's customer, and about who is or was entitled to act on behalf of that customer. The documents on our file show several versions of the customer's name, and I am not even certain whether C's customer was a sole trader, a limited company, or some other entity. But so far as C's complaint against GoCardless is concerned, that does not matter. Whoever – and whatever – C's customer is, the payer's bank(s) chose to accept the payer's chargeback claims.
- I have seen nothing to suggest that the contract between C and GoCardless required GoCardless to do anything to verify the identity of C's customer, or to verify that C's customer and the payer were the same person. Nor have I seen anything to suggest that C ever paid GoCardless any money in exchange for that sort of verification. That means I don't think it would be fair for me to hold GoCardless responsible for any difficulties C is suffering now because C is unable to contact its customer.
- Mr L has said that a Magistrates Court has confirmed that a crime has been committed. I have seen some evidence that C may have obtained a County Court Judgement in default against its customer (which does not in itself show that anybody did anything that was against the law). But even if C's customer did act fraudulently, or commit some other crime, that would not change the outcome of C's complaint against GoCardless. I have seen nothing to suggest that GoCardless should have any liability for a third party's fraud.
- I know there is a dispute about how C's customer's direct debit came to be set up. But in the circumstances, there is no need for me to make any findings on that dispute. Regardless of how the direct debit was set up in the first place, and regardless of who was responsible for that, it wouldn't change the position in respect of the chargebacks the payer later made. The payer's bank(s) accepted the payer's claim that the payer had not given authority for the direct debits, and regardless of who set up the direct debits that means the payer's bank(s) returned the payer's money.
- Mr L has approached several banks about this matter (I believe including C's bank and at least one of the payer's banks). All of those banks have declined to help him – but they have also all said that they will assist in any investigation the Financial Ombudsman Service chooses to carry out. I understand why Mr L would therefore

like me to approach the banks, but I am satisfied that none of them could have anything to say that would assist me in determining C's complaint against GoCardless. None of the banks were party to C's contract with GoCardless, and I have no reason to believe that any of them will hold any information that is relevant to C's dispute with GoCardless. (It is possible that some of the banks may hold information relevant to C's dispute with its customer – such as the identity and address of the payer – but that information would not change the outcome of C's complaint about GoCardless.)

- Mr L considers that GoCardless' complaint handling processes are not fit for purpose. I have not investigated those concerns, because complaint handling is not an activity covered by the Financial Ombudsman Service. In any event, I cannot see that GoCardless' complaint handling impacted the chargeback process.

I recognise that this has been a difficult time for C's directors and associates, and that they will be very disappointed by my decision. I also acknowledge that everything that has happened will have had a substantial emotional impact on Mr L and his colleagues. But I don't think GoCardless has done anything wrong, so I won't be asking it to refund the chargebacks or cease its attempts to recover debt.

My findings here have no impact on C's dispute with its own customer. I am satisfied that GoCardless did nothing wrong when it processed the chargebacks, but I have not (and cannot) make any findings about whether C's customer owes anything to C.

My final decision

My final decision is that I do not uphold this complaint against GoCardless Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask C to accept or reject my decision before 25 March 2025.

Laura Colman
Ombudsman