

## **The complaint**

P – a shop owned by a partnership – complains about how WorldPay (UK) Limited have treated them, after a debt was created from a chargeback.

Throughout this complaint, P has been represented by one of the partners in the shop, Miss P. So, for ease I'll just refer to Miss P.

## **What happened**

In late summer 2018, P processed two card transactions from a customer over the telephone. As the card holder wasn't in the shop at the time of the transactions, WorldPay classed the payment as 'card holder not present' (CNP).

A few months later the card holder raised a chargeback with their bank. They said that the card had been stolen and used fraudulently to buy goods from P. Because the transactions were completed over the telephone and confirmed as fraudulent, WorldPay told Miss P they were unable to defend the chargeback enquiry. As well as losing the goods, P suffered the loss of the funds, which were refunded back to the card holder. This created a debt on P's account with WorldPay.

Miss P says she was unable to repay the debt with WorldPay in one lump sum. Instead, she reached an agreement, where she'd repay £100 a month to WorldPay, until the debt was completely repaid.

The repayments to the debt continued until September 2019, when Miss P says she wasn't able to continue making them. WorldPay and Miss P continued to talk about the account over the next few months. And in spring 2020, Miss P offered to make an increased payment of £200, to try and bring the repayment plan up to date.

WorldPay say they were unable to accept any payment from Miss P, without checking she could afford to do so. Miss P says she made several attempts to send WorldPay her income and expenditure information by email. She also says it was at this point she was dealing with very poor health, where she spent time in hospital.

Because the debt was still unpaid, WorldPay continued to send notices of arrears to P and spoke with Miss P over the telephone. Miss P says she found this very distressing and that she was trying to make a new repayment plan, by sending the relevant information to WorldPay. Miss P says she complained to WorldPay, because she didn't think they were treating her fairly.

In their response to Miss P's complaint, WorldPay acknowledged that one of the telephone calls about the arrears, could have gone better. They agreed to reduce P's debt by £100 and to reach a new repayment arrangement with Miss P.

Over the next few months, Miss P tried again to send WorldPay her income and expenditure details, but says they wouldn't acknowledge they had received it. So, Miss P referred her complaint to us.

One of our investigators looked into Miss P's complaint and concluded that WorldPay had handled the chargeback claim fairly. She also found that WorldPay had received Miss P's income and expenditure details, but hadn't told her they were incomplete.

Although the investigator found that WorldPay were correct to make sure she could afford a repayment plan, she thought they could have sorted things out sooner. She concluded WorldPay should pay Miss P a further £100 for the distress and inconvenience they had caused and engage with her, to arrange a new repayment plan.

WorldPay agreed with the investigator's conclusions, but Miss P didn't. She said that WorldPay didn't consider her health, had called her constantly and that they should consider reducing the debt by more than a further £100.

The investigator didn't change her conclusions and Miss P's case has now been passed to me to make a final 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 Chargeback*

Miss P has a regulated hire agreement with WorldPay for the terminal P uses to process card transactions. I've thought about the hire agreement and Miss P's merchant services agreement, as well as the operating instructions for the terminal itself. The section titled 'Key Features' of the merchant services agreement says:

*'You are liable for each chargeback and these represent a debt immediately payable from you to us.'*

This section goes on to say:

*'It may not always be possible however for you to dispute Chargebacks successfully, even where you have provided goods or services. This is a risk of your business, which you accept.'*

Having carefully considered the merchant services agreement, I think WorldPay fairly explained to Miss P, that a chargeback claim against P was possible, even when the goods or services have been provided. But Miss P says that WorldPay should have protected P against the fraud, which created the debt P now owes. So, I've thought about that further.

Section 3.2 of the operating instructions for the terminal says:

*'CNP transactions carry a greater risk of fraud as you're unable to verify the purchaser. This can make your business susceptible to both credit card and chargeback fraud. If a CNP transaction is confirmed as fraud, the liability falls with you.'*

Miss P has told us that the two transactions were accepted over the telephone, where the cardholder wasn't present. I can also see from WorldPay's records, that the chargeback claim was processed because the cardholder explained that the card had been stolen at the time.

I understand that P has suffered a loss, both with the goods they sold and with the value of

the two transactions. And I sympathise with Miss P that her business was effected by the fraudster's actions, similar to the impact felt by the cardholder themselves.

Having considered everything, I think the terms of Miss P's agreement with Worldpay and the operating instructions fairly explain that P will be responsible for the value of a chargeback claim, where the card wasn't present and the transaction is confirmed as fraudulent. So, I think WorldPay treated Miss P fairly when they held P responsible for the debt created on the account.

#### *WorldPay's engagement with Miss P*

Miss P says she found WorldPay's contact with her excessive and threatening. So, I've considered the letters WorldPay sent to Miss P, as well as the telephone calls they made to her, to talk about the debt.

The records sent to us by Miss P and WorldPay show that regular letters were sent to P, summarising the arrears on their account. The letters also explain that if no payment is received, WorldPay may look to issue a breach of contract notice. From the evidence we have, I can see that from April 2020 until very recently, WorldPay sent around five letters to Miss P, which talk about the arrears.

I can understand why Miss P says she felt extremely worried by the letters from WorldPay. I think each letter makes it clear that WorldPay will look to take action to repay the debt owed by P. But, I also think the letters invited Miss P to talk about any financial difficulties she was experiencing.

Taking everything into consideration, I don't think the frequency of the letters sent by WorldPay to Miss P was excessive. I think each letter offered support with repaying the balance of the account, although I accept Miss P would have found them worrying at an already difficult time.

WorldPay have provided recordings of three of the telephone calls they had with Miss P. I have listened to the calls and I can hear that it was a very difficult time for Miss P, where she discussed her personal and financial circumstances. I agree that the discussions at times involved WorldPay asking for a plan to be put in place to repay the debt. But, I don't think WorldPay treated Miss P unfairly in how they spoke to her, or the information they were asking her for.

In all the circumstances, I think WorldPay were able to pursue the debt owed by P. I think WorldPay treated Miss P fairly when they sent her letters explaining about the arrears and in the telephone calls they made to Miss P, to talk about the account.

#### *The repayment offer and Miss P's income and expenditure details*

Miss P has told us that she was seriously ill in hospital in early 2020, when WorldPay spoke to her about the balance of P's account. She says that she offered £200 as an interim payment, while she continued with her recovery. Miss P also says WorldPay didn't accept that payment straight away, instead offering a month of breathing space, after which they would call her back to take the payment.

I can see from WorldPay's records that Miss P did offer £200, but that they needed some income and expenditure details from her, to make sure she could afford it. When WorldPay called Miss P back, after a month, their stance remained the same, in that they said they couldn't take a payment without Miss P's financial details.

I agree that WorldPay may have caused some confusion here. But, I think they treated Miss P reasonably, by wanting to make sure she was able to make the payment she was offering. Particularly at a time, where Miss P had explained that she was experiencing personal and financial difficulties.

Having considered all the evidence, I think WorldPay treated Miss P fairly, by reducing the debt on P's account by £100, to compensate for the confusion.

Turning now to the several attempts by Miss P, to get WorldPay to acknowledge her emails containing her income and expenditure details. I can see that WorldPay had all the information necessary, to tell Miss P they needed more clarification about some of the details, in June 2020 and again in October 2020.

However, it does not seem that Miss P was told this until after our involvement in February 2021. By which time Miss P had attempted to submit several other emails containing her financial details.

Having considered everything, I agree that WorldPay could have avoided causing Miss P further distress and inconvenience, had they responded to the information they felt was missing from her financial details. I also acknowledge that Miss P says WorldPay haven't considered her personal circumstances and health.

It's clear Miss P has found the last two years extremely challenging and difficult, which were made worse by the actions of the fraudster. But, I think WorldPay have offered breathing space where appropriate and have tried to engage with Miss P to bring about repayment plans. So, while I recognise that WorldPay could have reached this point sooner, I think they have treated Miss P fairly and reasonably.

That said, I do think WorldPay caused Miss P further distress and inconvenience by not being clearer about the information they needed, following her attempts to sort things out. So, I think WorldPay should increase the payment they've already made. WorldPay have already paid Miss P £100. In all the circumstances, I think it's fair that WorldPay pay P a further £100, bringing the total amount to £200, to settle this complaint.

#### *The outstanding balance owed to WorldPay*

I've reviewed the repayments and the statements of P's account with WorldPay, and I can see that interest and charges haven't been applied since the chargeback claims were successful. So, I don't think WorldPay have increased the balance owed by P, or asked them to repay any more than the total of the two transactions carried out by the fraudster.

WorldPay will need to engage further with Miss P, to talk about her income and expenditure details, in order to agree an affordable repayment plan. Although I think WorldPay could have acted sooner, to clarify Miss P's financial details, I think it's fair for them to continue to talk to her about the debt owed on P's account.

While I don't think WorldPay have treated Miss P unfairly, when they asked her to repay the debt, I acknowledge this finding means P will still have a responsibility to repay it. So, I remind WorldPay that they should continue to treat Miss P's personal circumstances fairly, when looking to agree a new repayment plan with her, for the recovery of the debt.

#### **Putting things right**

WorldPay (UK) Limited must pay P an additional £100, bringing the total amount they've paid P, to £200.

**My final decision**

My final decision is that I uphold this complaint, and I direct WorldPay (UK) Limited to pay P an additional £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask P to accept or reject my decision before 15 October 2021.

Sam Wedderburn  
**Ombudsman**