

The complaint

F, a limited company, complains that First Data Europe Limited (First Data) failed to notify it about a chargeback. This left F unable to dispute the chargeback.

F is represented in its complaint by a director, Mr P.

What happened

Mr P says that in November 2021 a person posing as a customer of F was able to by-pass the chip and pin security on its payment terminal. And that this resulted in a chargeback of over £570.

Mr P says that F never received any notice of the chargeback. If it had, Mr P says he would've had access to high quality footage of the person accessing the payment terminal. Mr P is unhappy with the security of the terminal which he says is what allowed the fraudster to carry out the transaction.

When Mr P first complained to this service, he'd been in contact with another business I will refer to as P. But as this complaint relates to a chargeback, P said it didn't have access to the relevant information which would be held by First Data.

This service asked First Data to supply its business file but this wasn't received. As the investigator had limited information to consider he relied on the evidence provided by F and recommended that the complaint be upheld.

The investigator asked First Data to refund the amount of the disputed chargeback together with interest.

After First Data received the investigation outcome, it said that it had already refunded half the amount to F. Mr P has confirmed that F has received this partial refund.

As First Data hasn't provided any further information to consider, the complaint has come to me for 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.

My understanding of how things work with First Data is that it partners with P as a merchant acquirer. This means that First Data acts as F's banking partner, allowing it to accept credit and debit cards. And First Data deals with any chargebacks or disputes on behalf of F.

Despite asking First Data several times we haven't received any information about the chargeback process that it used. This makes it difficult to say that First Data gave F notice of the chargeback.

I don't know what, if any, attempts First Data made to defend the chargeback on F's behalf.

It may be the case that even if First Data had notified F about the chargeback, First Data still couldn't have defended it. But without having further details from First Data, it's difficult for me to assess this all properly, so I can't be sure that First Data treated F fairly.

First Data has recently told this service that it already refunded half the amount of the chargeback but hasn't explained why it did this. Considering the limited information we have and as First Data seems to think it had something to put right by giving the partial refund, I consider it reasonable to uphold F's complaint.

I want to make it clear that my decision is about First Data, not P so I haven't considered F's concerns that its terminal wasn't properly secure. However, I can see P has since removed the manual facility from F's terminal, so I hope the security problem won't happen in the future. If F accepts my decision, it will receive a refund of the balance of the amount of the chargeback. As F has been without the benefit of the money since the chargeback was raised, I've also ordered First Data to pay interest on the refund. I hope this will bring everything to a close for F.

Finally, although I can see that Mr P found the experience very stressful and damaging to his health, the complainant is limited company F which is its own legal entity. This means I can't consider the stress that Mr P has felt personally. I can only consider the impact that any mistake or unfairness may have had on F.

Putting things right

To put things right First Data Europe Limited should:

- Refund F the remaining balance of the amount of the chargeback; and
- Add simple interest of 8% a year, calculated from the date the chargeback was debited to the date of settlement, taking account of the partial refund already made.

My final decision

My final decision is that I uphold this complaint. In full and final settlement, I require First Data Europe Limited to take the steps outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask F to accept or reject my decision before 4 January 2023.

Gemma Bowen
Ombudsman