

The complaint

Mr D is unhappy NewDay Ltd haven't refunded two transactions he disputed on his credit card account.

What happened

In June 2022 two transactions were made using Mr D's credit card, one online transaction for £178 on 9 June 2022 and one Chip and personal identification number (PIN) for £295 on 25 June 2022. Mr D contacted NewDay on 29 June 2022, after receiving his statement, to dispute them.

During the call to report the disputes, NewDay explained that the transaction for £295 was made via Chip and PIN and asked if the card was in Mr D's possession. He said "*I just realised it's not after checking my wallet*". He also confirmed he'd last had the card a couple of weeks previous.

NewDay refunded the transactions at first but, following investigation into them, re-debited them as they found no evidence of fraud. The first transaction for £178 had been verified via a one-time passcode sent to Mr D's phone. When this was presented to Mr D he told NewDay he had lost his phone. NewDay maintained their stance and also restricted Mr D's credit facility on the account to pay in only so Mr D referred his concerns to this service.

Our investigator didn't think NewDay had done anything wrong in not refunding the transactions, as she thought Mr D had most likely authorised the transactions himself or allowed someone else to make them.

As Mr D remained unhappy the complaint's been passed to me to decide.

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.

Whilst I've considered all the information provided by both parties, I haven't commented on all of it. This isn't meant as a discourtesy but reflects the informal nature of our service.

As a general rule, NewDay can hold Mr D liable for the disputed transactions if the evidence suggests he authorised them. The disputed transactions on Mr D's account were made by Chip and PIN and online (using the card details).

The first transaction was verified via a one-time passcode sent to Mr D's phone. Mr D told our investigator he lost his phone in early June 2022 along with his wallet, but I note he didn't report this at the time of raising the disputes with NewDay. And after he was told the payment for £295 was verified by Chip and PIN and asked if he had his card, he said he didn't and only realised after just checking his wallet.

This suggests Mr D didn't lose his wallet as it was in his possession when he reported the transactions on 29 June 2022.

NewDay have confirmed that the billing information for the transaction of £178 match Mr D's address. The payment for £295 was a hotel booking which matched Mr D's name, mobile phone number and email address. Given the type of bookings they were I find it likely confirmation emails would've been sent to the email address provided which matched the email address Mr D had given NewDay. I think Mr D would have been aware of the transactions before his statement was issued and could have reported them sooner.

Having spoken to the hotel where the transaction took place, they've confirmed that upon check in they require photo identification. As the booking was made in Mr D's name and paid for with his credit card, I think it's likely whoever checked in also provided photographic identification that matched this information.

There were no incorrect PIN attempts and I note Mr D said he didn't know the PIN by heart so would check the PIN in the app. NewDay have provided information which shows the PIN was viewed on the 25 June 2002, the same date the hotel transaction took place.

Whilst I'm aware Mr D said he had lost both his phone and wallet and it's a possibility that someone could've used the phone to gain access to the account and also used the credit card itself. I'm not persuaded this is the case taking account of the sequence of events.

The testimony Mr D gave at the outset conflicts with information provided to our service. And Mr D didn't report his card as lost as soon as he was aware. If he had, he may have been able to prevent the second transaction taking place.

If someone had acted fraudulently, I also find it likely that they'd look to make as many purchases as possible rather than one transaction at the beginning of the month and one at the end. They would be looking to take what they could before being discovered, and a block put on the account.

Following the investigation into the disputed transactions NewDay made a decision to withdraw Mr D's credit facility restricting his account to payment only. NewDay are entitled to decide who they offer a credit facility to as this is a commercial decision. And the terms and conditions of the account explain they may cancel or suspend the use of the account. I can also see they made Mr D aware of this decision so I can't fairly conclude they've done anything wrong here.

Overall, on balance, based on the evidence, I think it more likely than not that Mr D authorised or consented to the disputed transactions so I can't fairly ask NewDay to refund them. And I'm satisfied NewDay's entitled to restrict the account in line with their terms and conditions.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 30 March 2023.

Karin Hutchinson
Ombudsman