

The complaint

Mr B is unhappy that NewDay Ltd, trading as Amazon Platinum Mastercard, enabled an unauthorised third-party to gain access to his account and with several aspects of the service he received from NewDay surrounding this matter.

What happened

On 28 January 2022, Mr B noticed that unauthorised transactions were taking place on his NewDay account. Mr B tried to contact NewDay, but the phone line was closed, so he followed the advice he found on NewDay's website and voluntarily put a block on his account. However, when Mr B contacted NewDay the next morning he found that whoever was fraudulently accessing his account had managed to get NewDay to remove the block and had made further unauthorised transactions on his account.

Mr B wasn't happy about what had happened, and felt that NewDay hadn't been helpful when he'd contacted them about the issue and that this had greatly increased the amount of worry and trouble he'd experienced trying to understand and resolve the matter – which he eventually learned had taken place because a NewDay agent had allowed an unknown third-party to gain access to his account and change contact information without completing the requisite security checks on that third-party. So, he raised a complaint.

NewDay looked at Mr B's complaint and acknowledged they'd made an error which had allowed the third-party to access Mr B's account. NewDay apologised to Mr B for this and reimbursed the unauthorised transaction amounts to Mr B's account so that Mr B didn't incur any financial detriment because of what happened. And NewDay also made a payment of £100 compensation to Mr B for the trouble and upset he'd incurred, and later offered to pay a further £500 compensation to Mr B, increasing the total compensation payable to £600.

Mr B wasn't satisfied with NewDay's response as he didn't feel the £600 compensation took sufficient account of the impact of what had happened. And Mr B was also unhappy that NewDay had allowed a data breach to occur on his account by allowing the third-party access to it, and that NewDay hadn't responded to a Data Subject Access Request ("DSAR") he'd made in a timely manner. So, he referred his complaint to this service.

One of our investigators looked at this complaint. They agreed that the £600 total compensation amount didn't take fair account of what had happened, and so they recommended that NewDay should increase the total amount of compensation by a further £200, to a total of £800. Mr B remained dissatisfied, so the matter was escalated to an ombudsman 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.

Having done so, I'd like to begin by confirming that this service isn't a regulatory body or a Court of Law and doesn't operate as such. This means that it isn't within my remit here to declare that NewDay have or haven't acted in a non-regulatory or unlawful way.

Instead, this service is an informal, impartial dispute resolution service. And while we do take relevant law and regulation into account when arriving at our decisions, our remit is focussed on determining whether we feel a fair or unfair outcome has occurred – from an impartial perspective, after taking all the circumstances and factors of a complaint into consideration.

I also note that Mr B has provided several detailed submissions to this service regarding his complaint. I'd like to thank Mr B for these submissions, and I hope he doesn't consider it a discourtesy that I won't be responding in similar detail here. Instead, I've focussed on what I consider to be the key aspects of this complaint, in line with this service's role as an informal dispute resolution service.

This means that if Mr B notes that I haven't addressed a specific point he's raised, it shouldn't be taken from this that I haven't considered that point – I can confirm that I've read and considered all the submissions provided by both Mr B and NewDay. Rather, it should be taken that I have considered that point but that I don't feel it necessary to address it directly in this letter to arrive at what I consider to be a fair resolution to this complaint.

Where a business accepts that they made a mistake – as NewDay have here – it would be expected by this service that the business would take the action necessary to ensure that their customer doesn't incur any financial detriment because of that mistake.

Upon consideration, I think that NewDay have done that here. I say this because NewDay have reimbursed the unauthorised transaction amounts back to Mr B's account and ensured that Mr B wasn't charged any interest on those amounts while they were present on his account. And I'm satisfied that by taking these actions, NewDay have ensured that Mr B hasn't incurred any financial detriment on his account because of what happened.

NewDay have also apologised to Mr B for what took place, and they've accepted the view of this complaint put forwards by our investigator to pay an increased amount of £800 total compensation to Mr B.

Matter of compensation can be subjective, and I'm aware that Mr B feels that a significantly higher amount of compensation is merited here. However, given the full circumstances of this complaint – including the time and effort Mr B had to expend trying to understand and resolve this matter, the trouble and upset Mr B experienced resulting from the breach of data that occurred because of the third-party accessing Mr B's account, and the frustration and inconvenience incurred by Mr B because NewDay didn't respond to his DSAR request in a timely manner – I do feel that the £800 total compensation amount recommended by our investigator is a fair amount.

In arriving at this position, I've considered the impact that these events have had on Mr B, as he's described them. And I've also considered the general framework which this service uses when considering compensation amounts for distress and inconvenience – further details of which can be found on this service's website. And upon review of all these factors, I feel that £800 is a fair total compensation amount.

I realise this won't be the outcome Mr B was wanting, but I must note that I don't feel that this service's general approach to compensation awards for distress and inconvenience is in line with Mr B's own expectations on this matter. And I remain confident that I have considered the full and combined impact of what's happened here to Mr B, and also that £800 is a fair award of compensation for that impact, given what I've explained above.

Finally, I'm aware that Mr B is unhappy with how NewDay applied a Credit Industry Fraud Avoidance System ("CIFAS") marker on his account, which Mr B feels was applied later than it should have been, and which caused him inconvenience when it was added.

But I'm satisfied that it was fair and appropriate for NewDay to have applied a CIFAS marker when they had satisfied themselves that fraud had occurred. And, as such, I don't feel that NewDay have acted unfairly by applying the CIFAS marker when they did, and I also feel that any inconvenience Mr B experienced because of that CIFAS marker was unfortunately a necessary inconvenience resulting as a consequence of it being reasonably applied.

All of which means that, while I will be upholding this complaint in Mr B's favour, I'll only be doing so on the basis that NewDay must pay a further £700 to Mr B – in addition to the £100 that they've already paid – taking the total amount of compensation payable to Mr B to £800. I hope that Mr B will understand, given all that I've explained, why I've made the final decision that I have.

Putting things right

NewDay must make a payment of £700 to Mr B.

My final decision

Your text here

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 15 August 2023.

Paul Cooper
Ombudsman