

The complaint

Miss L complains that she was given misleading information when she entered into a contract with First Data Europe Limited for merchant services and terminal hire. She says she wouldn't have entered into the agreement if she'd known the true cost.

What happened

One of our investigators looked at this complaint, and issued his opinion on 24 February 2023. He was satisfied Miss L was misled about the cost of the agreement, and he explained why he'd come to that view. He thought Miss L should only be liable for fees of £1 a month plus card fees for actual sales, and any other payments made should be refunded. He also thought First Data should pay Miss L £100 for the distress it had caused to her.

Miss L accepted our investigator's opinion in full. On 15 March 2023 First Data's representative said that although she thought Miss L was aware of the full costs from the outset, she was prepared to accept our investigator's recommendations. She said she had arranged for the lease to be closed as requested, and that First Data would pay £100 to Miss L.

Our investigator closed our files on this case on 15 March 2023, on the grounds that both parties had agreed to a resolution. But there has been correspondence since that date, and our investigator ultimately decided to reopen the complaint. I note:

- On 15 April 2023 Miss L contacted us to say she was confused because First Data had sent her two letters, one to say it was paying her £100 and the other to say she owed it £100.
- Our investigator emailed First Data on 17 April 2023 to try to find out what had happened, but he did not receive a reply.
- Miss L contacted us again in May to say she still hadn't received the £100.
- Our investigator called First Data on 15 May 2023, and it forwarded an email which it had intended to send to us on 20 April 2023 (but which had originally gone to a member of First Data's staff in error). That email said the £100 had been added to Miss L's First Data account.
- On 17 May 2023 our investigator emailed First Data asking how Miss L could access the funds that had been added to her account, given that her account had been closed.
- He chased again on 2 June 2023. First Data's representative replied to apologise for the delay, and to say she would see if a cheque could be raised for Miss L. Three days later she wrote to "confirm that a Chq request has been raised for [Miss L]". But Miss L contacted us on 2 July 2023 to say that she hadn't received a cheque.

- Our investigator called First Data on 4 July 2023, and was told that one of its staff would look into what had happened to the cheque, and confirm when it was issued and to whom. He chased again on 17 July 2023, but did not receive a response.
- On 24 August 2023 Miss L told us that she still hadn't received the £100 payment.
- On 29 August 2023 our investigator wrote to both parties to say that he was satisfied the agreed settlement hadn't been fully carried out, and that he was therefore reopening the complaint to allow an ombudsman to consider the matter and issue a final decision. He gave both parties until 12 September 2023 to provide any additional evidence or arguments that they wished to share with us. Neither party chose to take that opportunity.

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 see no reason to depart from our investigator's conclusions. Both parties agreed to settle the complaint on the basis of his recommendations, and I consider that the outcome he reached is fair.

Putting things right

I understand the agreement between First Data and Miss L has been cancelled, and the only unresolved issue is the £100 compensation for the distress she has suffered.

I don't know what happened to First Data's £100 cheque. There are many possibilities: perhaps the cheque was never sent in the first place; perhaps it was sent to the wrong address; perhaps it was sent to the correct address but was lost in the post; or perhaps something else happened. I think it is unlikely that Miss L received the cheque and cashed it, because if that was the case First Data has had ample opportunity to tell us so.

I consider that the fairest resolution to this complaint is for First Data to pay Miss L the £100 it has already agreed to pay. If it has already sent a cheque, it may wish to place a stop on that cheque.

If Miss L chooses to accept this final decision before the deadline (that is, before 20 October 2023), the outcome our investigator reached will be legally binding on both her and First Data.

My final decision

My final decision is that I uphold this complaint. I order First Data Europe Limited to pay £100 to Miss L.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 20 October 2023.

Laura Colman
Ombudsman