

## **complaint**

Mrs H has complained NewDay Ltd dealt with her fraud case poorly.

## **background**

In November 2017 Mrs H applied for a Debenhams card from NewDay. She was then away for a bit and when she got back, hadn't received her card nor PIN from them. She phoned to ask where these were. She was kept on the phone for a while but eventually told the card had already been activated and used. But NewDay would investigate and get back to her.

Mrs H received a statement in January for the fraudulent use of the card, along with a late payment fee. She called to see whether this could be put right. Mrs H was upset at the implication she must have used the card herself and needed to pay the bill. She wrote to complain. She then received two letters from NewDay telling her they were investigating but nothing further.

Mrs H brought her complaint to the ombudsman service. NewDay gave Mrs H their final response. They accepted the fraudulent transactions weren't hers and wouldn't be asking her to pay for them. They paid her £20 in compensation for the delay in sorting out the problems she'd had.

Mrs H remained unhappy with this outcome so wanted us to continue looking into her complaint. Our investigator felt the evidence was clear cut. NewDay admitted the fraudulent transactions weren't Mrs H's but it had taken them more than four months to sort things out. She didn't think £20 compensation was sufficient. She asked NewDay to pay Mrs H a further £50.

NewDay declined to do this. Mrs H's complaint has been referred to an ombudsman.

## **my findings**

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've reached roughly the same conclusion but am increasing the compensation on offer. I'll explain why.

Firstly there's no debate here around the fraudulent transactions. NewDay has accepted Mrs H never received the card and PIN she applied for. Someone else intercepted these and used them to make fraudulent cash withdrawals and a retail transaction.

The issue I'm considering is whether £20 is enough compensation for the distress caused by the delay in NewDay sorting this out. And it's hard to come to the conclusion that NewDay has treated Mrs H properly.

Mrs H contacted NewDay on 4 and 13 December 2017. Firstly to query where her card was and then to see what had happened to the investigation. On the second occasion NewDay's staff member was concerned that Mrs H wasn't the genuine customer. Which seems ironic.

On 22 January 2018 Mrs H phoned NewDay again. She was advised to maintain minimum payments to her account whilst the fraud investigation continued. On 24 January NewDay credited all the fraudulent payments back to Mrs H's account in line with regulations covering what happens once customers report fraud.

Whilst Mrs H then wrote to NewDay on 28 January, she didn't receive anything from them. They did send her a final response in April 2018 but she never received this. NewDay has told us they're uncomfortable confirming the outcome of a fraud investigation by letter as they felt the statement confirmed the outcome. They also told us Mrs H hadn't called them back as requested.

Mrs H has been unable to open the statements NewDay send her by email. As she's never had a replacement card, she doesn't know the expiry date. This information is needed to access her account statements.

It seems to me Mrs H had to do all the running here. I appreciate NewDay's concern about putting the outcome in writing but I don't think it's fair to expect Mrs H to keep calling them. Whilst I agree NewDay aren't obliged to tell Mrs H exactly what happened, I think it would have been fairer on her – particularly as she had genuine concerns about being a victim of fraud and the potential impact on her credit record – to let her know what the outcome of their investigation was.

Our investigator also noted originally NewDay asked Mrs H to continue to make minimum payments to her account. This was incorrect advice. Once a fraud is being investigated, the customer should be refunded the disputed funds in line with the Payment Services Regulations. Although NewDay eventually did this, they didn't do this immediately.

Our investigator awarded Mrs H an additional £50. I was surprised NewDay didn't just accept this outcome – particularly as by that time Mrs H's complaint had been open for over a year. I contacted NewDay again to see whether they'd accept this outcome but got no response. But in fact having thought about this afresh, I think an additional £100 would be the right amount to reflect the additional distress caused to Mrs H by NewDay's actions.

I know originally NewDay credited Mrs H's Debenhams' account with £20, I think it's unlikely Mrs H will ever want to use this account and just wants it closed and done with. NewDay will need to contact Mrs H to pay her £120 in total either by automated payment to her account or by cheque, whatever she prefers.

I note our investigator was able to confirm no adverse data had been placed on Mrs H's credit record about this account. Once this account is closed, I suggest NewDay remove all data about the account from Mrs H's record.

**my final decision**

For the reasons I've given, my final decision is to instruct NewDay Ltd to:

- remove any data from Mrs H's credit record about the Debenhams account; and
- pay Mrs H a total of £120 compensation to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 6 December 2019.

Sandra Quinn  
**ombudsman**