

complaint

Miss B is unhappy about the difficulties she has had with NewDay Ltd (trading as Aqua) regarding chargebacks for several disputed transactions on her credit card.

background

Miss B used her credit card to buy a number of items from overseas. These items didn't arrive. Miss B contacted NewDay and asked it to help her get her money back. She was challenging 13 transactions in total. They had taken place between 27 July 2016 and 7 January 2017. When she rang on 13 March 2016, Miss B was told that NewDay couldn't look at transactions before October. It is only able to use chargeback for transactions less than 120 days old.

NewDay sent out two declaration forms for Miss B to fill in and sign. The covering letters for the declaration forms tell Miss B *"due to the strict time limits set by MasterCard, please send the declaration form back to us within the next 14 days"*. Both cover letters sent to us are dated 5 April 2017.

The first form listed only three of the disputed transactions. It was signed and dated by Miss B on 18 March 17. The second form listed nine transactions from 16 October to 7 January. It was sent out on 5 April. Miss B signed and dated this form on 12 April.

Miss B raised a complaint with NewDay on 8 June 2017, where she stated she was unhappy that she didn't get a declaration form for the other transactions and about poor customer service.

Miss B made a further phone call to NewDay on 8 July 2017. The declaration forms were discussed, as Miss B had been told in the previous call that these hadn't been received. The adviser didn't say whether the declaration forms had been received or not but gave another address that these could be sent to just in case.

In its final response letter NewDay said it didn't receive either of the forms until 17 July so it couldn't challenge the transactions as Miss B didn't return the forms until after the 120-day period had ended. It applied £15.00 to Miss B's account in recognition of the poor customer service and mis-information she had received. Miss B didn't agree with this and sent her complaint to this service.

Our investigator was able to see from NewDay's files that the first was marked as received by NewDay on 4 April 2017. The second declaration form shows as received by NewDay on 20 April 2017. With both of these declaration forms Miss B included correspondence with the merchants to show the difficulties she'd had trying to get refunds from them.

She felt that the deadline used by NewDay was an internal deadline. The final date for raising a chargeback for most of the transactions, as NewDay stated in their business summary, was 7 May 2017.

As NewDay received both of the declaration forms from Miss B well before this deadline our investigator felt NewDay could've raised the chargebacks for Miss B. She also thought the correspondence with the merchants showed Miss B didn't receive the goods and she'd tried to resolve the issues with the merchants. So, our investigator considered the chargebacks were likely to have been successful.

She said NewDay should refund Miss B all the transactions that could've been raised as chargebacks, less any that have already been refunded. She also said 8% statutory interest should be added on top of this, calculated from 7 May 2017, the last date any of the chargebacks could've been raised.

Our investigator then looked how NewDay had handled the disputed transactions and Miss B's complaint. She said it involved errors and confusion and Miss B received poor customer service.

She said NewDay should pay Miss B £100 in recognition of the inconvenience. This is in addition to the £15 already applied to her account.

Miss B accepted our investigator's recommendation but NewDay said Miss B was out of time for the chargebacks to be raised and it didn't think it should have to pay the money to her. NewDay asked an ombudsman to look at the case.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Miss B rang NewDay on 13 March and raised disputes on nine transactions. I have listened to the call and have confirmed how many she raised. She rang again on 14 March and added 4 more transactions she wanted to dispute. A form was sent out to her listing only 3 of those transactions. The covering letter sent to us is dated 5 April but NewDay say it was sent out on 14 March. Miss B signed the form on 18 March and returned it to NewDay. Given how thorough she has been with her record keeping I've no reason to doubt Miss B returned the form on the day she signed it or shortly afterwards.

A second form was sent out on 5 April listing nine disputed transactions some of which were duplicated from the first form and 3 of the 4 newly added transactions were also included. There is a note in the NewDay contact sheet when this form was generated and sent out. There is no entry for the earlier form. So I think the first form wasn't produced properly under NewDay's systems. It didn't list all the transactions and there is no system note to show it was created or sent out. This may've been a system fault but it added to the delay and confusion in the case.

I think if NewDay had sent a declaration listing all of the disputed transactions at the date Miss B raised them on 14 March then there would have been enough time for it to raise a chargeback for the four transactions on 7 January.

NewDay said in its final response and to this service that it didn't receive the forms until July. But its records show the first form was received and scanned in to NewDay's system by 4 April. And both were received by NewDay before the cut off date for the last four transactions. So I can see no reason why NewDay didn't raise the chargeback request for those transactions.

I agree with our investigator that NewDay handled Miss B's chargeback requests badly and I think she received poor customer service from it.

Miss B should be compensation for this trouble. I don't think the £15 applied to her account by New Day following its final response letter was enough. I think NewDay should pay Miss B £100 for the trouble and upset caused.

my final decision

I uphold this complaint. I require NewDay to refund to Miss B the four disputed transactions of 7 January totalling £101.29. NewDay should add 8% simple to this figure from 7 May 2017 to the date of settlement. It must also pay Miss B a further £100 for the trouble and upset caused. This is in addition to the £15 already applied to her account.

If NewDay Ltd considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Miss B how much it's taken off. It should also give Miss B a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 1 July 2018.

Margaret Hughes
ombudsman