

complaint

Mr D complains that NewDay Ltd, trading as Opus, gave him incorrect information about a transfer of money into his account by a friend. He also complains that this original error was compounded by Opus making further mistakes.

background

Mr D says he called Opus to ask if a friend transferred money to his credit card would there be any fees or charges and could he withdraw it as cash. He says he was told there would be no fees and he could withdraw cash. The transfer was made. Mr D then discovered he could not withdraw the sum as cash. He then made frequent calls to Opus to try and resolve the problem.

In the course of these calls he was given more misleading information. Opus does not allow credit balances on credit card accounts and under its terms and conditions any surplus should be returned to the payer. It does allow cash to be withdrawn from an account subject to fees, but in Mr D's case a block had been put on his account, apparently in error, to stop cash withdrawals. Mr D spoke to a manager, who agreed to allow him to withdraw some of the cash without incurring charges, but then his account was frozen due to fraud concerns and he was left without access to it. He says he was trying to organise a holiday at this time and that was made more difficult by him not being able to use his credit card.

Opus then returned the payment back to the payer's bank, but it sat in a suspense account for about five months before it was credited to the payer's account. Due to the difficulties he was facing with Opus, Mr D stopped making his regular monthly payments and fell into default. Opus reported this to the credit reference agencies. Mr D also says that he has been bombarded by calls from Opus asking him to settle his outstanding balance despite it being aware of the ongoing dispute.

Mr D complained to Opus who apologised for the misinformation and offered compensation of £100. Mr D refused that offer and brought his complaint to this service. The adjudicator recommended that this complaint be upheld. Following the adjudicator's intervention, Opus has agreed to increase the compensation to £250, refund debit interest accrued since April 2013, reimburse any fees charged since April 2013, pay interest on the credit balance and remove any adverse information it placed on Mr D's credit file.

Mr D did not agree and asked that he be given the money his friend had transferred and for Opus to reclaim that from his friend's bank.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

It is clear that following on from the original incorrect information given to Mr D there has been a succession of errors by Opus. Once the money was transferred Mr D endeavoured to gain access to it and has been thwarted at every step. It was his money and he should not have had to struggle to get hold of it. However, I consider that, eventually, Opus followed the correct procedure of returning the money to the payer's bank, though that too was complicated by it not being credited to the payer's account for five months.

During this Mr D has suffered distress and inconvenience. He has had to make numerous calls to Opus and has not always received helpful service. He has been subject to frequent calls from Opus regarding his outstanding balance when it should have put a stop to such calls until the problem was resolved.

I understand the events have not helped his relationship with his friend, but both Opus and the friend's bank have confirmed that the money has been returned to the friend's account. I consider Mr D should seek to obtain the money he is owed directly from his friend.

I agree with the adjudicator that Opus should put Mr D back in the position he was in before the transfer was made. The adjudicator has set out what he thinks will achieve that and I agree with his conclusions.

my final decision

My final decision is that I uphold this complaint and direct NewDay Ltd, trading as Opus to:

- Pay Mr D compensation for distress and inconvenience of £250
- Refund the debit interest on Mr D's account from April 2013 to date
- Reimburse any fees incurred on Mr D's account from April 2013 to date
- Pay interest at 8% on the credit balance of £1,326.50 from the date it was credited to Mr D's account until the date of settlement
- Remove any adverse information from Mr D's credit file subject to him paying his outstanding arrears.

If NewDay considers it must deduct tax from the interest element of my award, it should provide Mr D with a tax deduction certificate when making payment. Mr D may then be able to reclaim that sum from the tax authorities if appropriate.

Ivor Graham
ombudsman