complaint

Mr D brings this complaint on behalf of N, a limited company. Mr D complains that WorldPay (UK) Limited has wrongly charged N for data standards non-compliance.

background

N has an account with WorldPay, to enable it to take payments by plastic card. Mr D says that he told WorldPay about a change of address for N some years ago, but later discovered WorldPay had not updated its records.

Mr D got copy statements for N's account and noticed that charges had been applied for data standards non-compliance. He says this was caused by WorldPay's letters going to the old address, which meant he was unaware of the data standard requirements and did not realise that the charges would be applied.

WorldPay said that it did not have any record of receiving a change of address for N, and did not accept it had made a mistake in not updating its records. It said it had not received any returned mail and considered that N had been sent fair notice of the charges. But it offered to waive compliance charges for the last twelve months once the necessary compliance certificate had been uploaded.

Mr D remained unhappy with the situation and brought N's complaint to this service, where an adjudicator investigated it. From the evidence, the adjudicator was not persuaded that WorldPay had made a mistake and so did not recommend that the complaint should succeed.

Mr D did not agree and said, in summary:

- He relocated N years ago and sent a letter to WorldPay to update the address. But his priority has been to build up N's business, not to chase WorldPay for missing post.
- The compliance fees were introduced after he moved, and so WorldPay should have made sure he received the letters about it. WorldPay had his bank account details, and the new address was on his bank account.
- It is possible that WorldPay received the notification but then mislaid it. It has more recently been sending him emails, as the email address did not change, and this suggests it knew something was wrong.
- It seems that WorldPay's word has been taken over his, even though it has poor customer service. Attempts to phone WorldPay result in a long wait and he has also experienced difficulties with the payment gateway. WorldPay should stop charging while this is all sorted out.
- He has had a similar problem on the merchant facility for his other business and fails to see why compliance is necessary, given that all payments to that business are made by customers in person.

my findings

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

I realise that Mr D has found this matter very frustrating, and I note that the adjudicator has provided further information about how he may arrange to demonstrate compliance. In terms of the existing non-compliance charges, I have carefully considered the evidence concerning the change of address.

Whilst Mr D recalls sending notification of the change of address to WorldPay some years ago, I am satisfied that there is no supporting evidence of that having been received by WorldPay. I find, on a balance of probabilities, that WorldPay did not receive a change of address notification for N's account.

I accept that WorldPay sent letters to give advance notice of the data standards requirements, and of the charges that would be introduced. Letters sent out by WorldPay to Mr D have not been returned undelivered, and there is no indication that Mr D had raised any query before.

So I am not persuaded that WorldPay realised its mailings to N were going to an out of date address. I appreciate that Mr D has primarily been focussed on growing the business, but WorldPay would not know post was not being received unless it was told that.

The bank account number and sort code that Mr D gave WorldPay to enable it to take the monthly charges did not include the bank account address – and WorldPay would not be able to see any other details of the bank account.

Given my findings, I cannot uphold this complaint.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D (on behalf of N) to accept or reject my decision before 8 February 2016.

Jane Hingston
ombudsman