

complaint

Mr K complains that NewDay Ltd (NewDay), trading as Marbles, took too long to reverse a cheque payment.

background

Mr K paid a cheque into his Marbles account on 25 May 2017. The cheque was applied to his account on 1 June and Mr K continued to use his account. But on 20 July 2017 the payment was reversed because NewDay were informed by the bank that the cheque had been reported lost or stolen.

Mr K says that NewDay took far too long to reverse the payment. He says that the guidelines provided by the Cheque and Credit Clearing Company (C&CCC) say the cheque should be cleared with no risk of reversal by the end of the sixth day. And he also says that the terms of his Marbles credit card say that cheques will be cleared in seven days.

NewDay explained that there had been a keying error that meant the cheque wasn't returned as quickly as they would have liked. They said that as far as they knew there weren't any timescales for cheque reversals and they said Mr K hadn't suffered any financial loss as no money would have left his bank account. They also said that as there had been six cheques provided by Mr K that all bounced he must have been made aware of the issue by his bank.

Mr K referred his complaint to this service and our adjudicator agreed with him. He noted that the industry guidelines provided by the Cheque and Credit Clearing Company (C&CCC) said that cheques should be cleared with no chance of them being reversed by the end of the sixth working day. He thought it was therefore reasonable for Mr K to assume the payment had cleared successfully. So he thought it was fair for NewDay to honour the cheque and repay any interest and charges that had been applied to his account as a result of the problem. He considered what NewDay said about the other bounced cheques but this didn't change his opinion as he said the cheque in question was the first of these and it therefore wasn't clear that Mr K would have been alerted to the problem.

NewDay disagreed with the adjudicator's view. They thought they were being asked to repay funds that they never received and that would never have been debited from Mr K's bank account and they thought this was unfair. So they asked for a decision by 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.

I agree with the adjudicator's view of this complaint. I'll explain why.

I don't accept NewDay's view that there are no agreed timescales for cheque reversals. The industry guidelines are provided by the C&CCC and say that the maximum timescales for cheque clearance will be six working days. After this point cheques are considered "*cleared for fate*" which means that the cheque cannot be returned unpaid. The only exception to this would be if the cheque was involved in a fraud in which the customer was involved.

I understand NewDay's frustration that the funds were never received by them but the guidelines are provided so that there is a clear point in time when their customers can be

certain money is cleared and available to them. If there wasn't such a back stop money could be reversed at any time and the result would be chaotic.

I have noted NewDay's comments about the number of bounced cheques but I'm not persuaded this makes any difference. There's no suggestion that Mr K was involved in any fraud so there's no exception to the guidelines provided by the C&CCC and as the adjudicator has explained, this was the first of the cheques and it's conceivable that Mr K would not have been aware of the issue.

So as the cheque was not returned until after the "*cleared for fate*" point the cheque should be honoured by NewDay and Mr K's account should be credited accordingly.

my final decision

I uphold this complaint and order NewDay Ltd to:

- Credit Mr K's account with the sum of £1,800 being the amount of the returned cheque
- Remove any interest and charges that have been applied as a result of the cheque being reversed

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 9 March 2018.

Phil McMahon
ombudsman