

## **complaint**

Mr M complains that NewDay Ltd allowed a company to take payments from his Opus credit card even though he'd specifically told it not to do so. He wants Opus to refund the money.

## **background**

Mr M contacted his credit card provider (which later transferred its business to Opus) in 2010 to complain about a company that had taken a large number of payments from his account. He said he hadn't agreed to these. The company was able to show Mr M had actually agreed to the payments. While Mr M wasn't happy about this, he accepted the situation but asked that no further payments to the company be allowed.

In 2013, the company started taking payments from Mr M's Opus credit card account. Mr M contacted Opus early in 2014 but, again, the company was able to persuade Opus that he'd agreed to each of the payments. Mr M wasn't happy with this, so he contacted us.

One of our adjudicators looked into Mr M's complaint. Mr M had a different credit card number in 2013 from the one used by the company to debit his account in 2010. So it seemed Mr M had at least given the company his (new) card details in 2013.

But the adjudicator wasn't persuaded Mr M had given his explicit authority for each payment. Mr M used a number of similar companies. And his clear view was that he hadn't agreed to this company taking anything other than the first payment in 2013 – and even that was probably done without Mr M realising quite what was happening.

Opus told our adjudicator it had no way of stopping the company taking payments from Mr M's card. Given that he'd given a clear instruction, which Opus didn't dispute, the adjudicator thought it should refund all the payments after the first (new) one in June 2013.

Opus didn't agree with the adjudicator's view. Despite several reminders to Opus for its reasons for doing so, it hasn't given us any. So Mr M's complaint's been referred to an ombudsman to make a final decision.

## **my findings**

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

Little of this complaint's in dispute – although I need to point out a small error in the adjudicator's view. He says the first payment taken by the company in 2013 was in June. In fact it's on 31 July – as shown on Mr M's monthly statement. So, where the adjudicator recommended Opus refund all transactions from July 2013, this should be August.

Like the adjudicator, I find Mr M's story to be plausible. He uses a number of companies providing similar services to the one involved in this complaint – and on a regular basis. He certainly seems to be very clear about what he's agreed to pay – and what he's not. So I have no reason to disbelieve what Mr M's said.

While I've some sympathy with Opus that it may now have to refund the payments (after 31 July 2013) because it doesn't have any way of stopping them; that's not Mr M's fault either. Mr M clearly withdrew his authority for payments to be made to this particular company. I'm satisfied the first payment Mr M agreed to in (July) 2013 was probably made in error but it wouldn't be fair to make Opus refund this. But I'm also satisfied Mr M certainly didn't knowingly give any authority for future payments to be taken.

And I also understand that Opus now has to deal with this situation when it wasn't Mr M's credit card provider in 2010. But – again – that's not Mr M's fault. It's something Opus has to accept by virtue of taking over that provider's business.

Lastly – and perhaps most importantly – Opus hasn't given us any reason why it disagrees with the adjudicator's view. It's had several reminders over recent months. This isn't acceptable and has delayed settlement of this dispute. So I think Opus should pay Mr M a modest amount of compensation for the unnecessary delay.

Opus needs to refund all the payments made to the company after 31 July 2013. It should re-work Mr M's account to ensure the amount of interest – if any – he's been charged is correct. Any overcharged interest should be refunded as well. And lastly, it should pay Mr M £100 compensation.

### **my final decision**

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

- refund all payments made to the company in question after 31 July 2013;
- re-work Mr M's credit card account after this date and recalculate (and reduce) any interest that Mr M may have been charged (NewDay Ltd should provide Mr M with revised monthly statements); and
- pay Mr M £100 compensation for the unnecessary delay in settling this dispute.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 13 May 2015.

Andrew Davies  
**ombudsman**