

The complaint

Mr B is unhappy Zilch Technology Limited (Zilch) is asking him to repay a debt on his account when it actually owes him money.

What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

“Mr B holds an account with Zilch. Zilch allows for purchases to be made with repayment either in full or spread over a period of weeks.

In 2022, Mr B has explained that he was owed a refund of around £40-£60 from a company I shall call ‘G’. Mr B requested a subject access request (SAR), when he believed this hadn’t been provided. Mr B was being asked to repay the outstanding amount on his account but wanted what he was owed to be refunded first.

Mr B raised a complaint due to the delay and lack of response from Zilch. Zilch responded on 29 March 2023 and apologised for the lack of contact and delay in providing the information Mr B had requested. It offered Mr B £50 in compensation for any additional stress Mr B had been caused and confirmed the SAR had now been sent. Mr B explained to Zilch he didn’t have a bank account for it to pay the £50 to and requested a cheque. Zilch said it couldn’t send a cheque but could transfer to the bank account linked to the Zilch account or add the funds as Zilch rewards.

Mr B was unhappy with the £50 Zilch had offered. He said the situation had been ongoing for six months, all his correspondence during that time had been ignored, his credit file negatively impacted and from reviewing the SAR he had found that he had been charged £108.80 and £104.40 at a company I shall call ‘M’, but these transactions had been declined and been paid via other means. Therefore, along with the missing refund from G, Mr B wanted to know what he actually owed.

Unhappy with the response from Zilch Mr B’s complaint was passed to one of our investigators. Mr B provided evidence he believed showed the transactions to M had been declined. He confirmed he was being pursued via debt collectors for £296.57 incorrectly and that he now had a bank account.

The investigator upheld Mr B’s complaint and said the evidence showed the transactions under the declined section of Mr B’s account. Therefore, Mr B shouldn’t have to make any payment towards the two declined transactions and anything he has paid Zilch towards these should be refunded. The debt shouldn’t have been passed to a debt collector and Mr B has been caused further distress because of this. Given this the investigator also recommended the compensation be increased to £250.

Mr B agreed with this outcome, but Zilch didn’t. Zilch said the transactions weren’t declined and Mr B correctly needed to repay the £108.80 and £104.40. Zilch also said it hadn’t inconvenienced Mr B further and still believed the £50 it had previously offered was fair. The investigator responded and said in light of Zilch providing nothing to show the transactions weren’t declined, they were still persuaded by the evidence Mr B had given that showed the transactions to M under the declined tab of his account. The investigator also clarified why

they were still recommending £250 in compensation. This was due to Mr B being chased for repayment of a debt that based on the evidence, he didn't owe.

Zilch still didn't agree and explained it had made payment to M and therefore Mr B needed to make repayments for the two transactions in line with his agreement. As he hadn't, debt collection activity had correctly been taken. Given this Zilch also still disagreed with the increased £250 in total compensation.

As Zilch disagreed with the investigator, the complaint was passed to me to decide.

Given the contradicting version of events over the two transactions, I asked Zilch to provide evidence to show it had paid M. Eventually Zilch responded and provided further evidence.

What I've provisionally decided – and why

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

I would like to point out I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point, it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Transaction to G

Firstly, I've looked at the refund Mr B says he was due from G that started the complaint and the request for a SAR. Zilch has provided evidence that it received three refunds from G in relation to an initial transaction of £82.69 to G on 25 October 2022. These three refunds were received on 1 and 2 November 2022 and totalled £37.13 and were off set against the total amount owed. Mr B paid £20.67 on 25 October 2022 when the transaction was first made. This means after that repayment and the three refunds, Mr B only needed to repay £24.89. I can see that this amount was fully repaid on 2 November 2022 by Mr B.

Zilch didn't pass the refund directly to Mr B but instead used the refunds to reduce what he owed. I'm satisfied this is reasonable and Mr B has repaid the correct amount to G for the transaction of £82.69 on 25 October 2022. He hasn't overpaid and isn't due any further refund for this from Zilch.

Transactions to M

Mr B has explained that the two transactions to M of £108.80 and £104.40 were declined and he paid via other means. Therefore, Zilch shouldn't be asking him to repay these amounts. He has provided evidence of the transactions being present under a section of his account labelled declines.

As the declines section detailed other transactions that Mr B says he did make, I wasn't satisfied transactions being given under the declines heading necessarily meant they had actually been declined. This is why I requested further evidence from Zilch. Zilch has now provided evidence that shows the two transactions were authorised and that it paid the full £108.80 and £104.40 to M. I appreciate that Mr B has explained he was told by M the transaction had been declined and therefore paid via other means. But the evidence now available clearly shows the transactions were authorised and that Zilch paid M. It's reasonable therefore that Zilch asks Mr B to repay it for these.

This may be something that Mr B raises with M directly. But given the evidence, Mr B correctly owes Zilch for the remaining amounts due for the two transactions.

Customer service

I can see that Zilch offered to pay Mr B £50 for the delays and poor service he received when making his SAR request. I think this is reasonable given the delays from when Mr B asked for the SAR, and it being provided.

The investigator recommended an increase in the compensation due to the distress that was being caused by Zilch trying to collect a debt that wasn't owed. Given my findings above, it follows that I don't agree with this. I'm satisfied Zilch was correct in contacting Mr B to try and recover money it was owed.

I do think that Zilch could've provided evidence sooner to clarify the transactions had been authorised. It's clear the situation with the debt was distressing Mr B and had Zilch shown the evidence and explained that given this it was correct in asking for repayment it might have helped ensure his distress wasn't as significant and resolved the situation quicker. Given this I feel that Zilch should pay Mr B a further £50 for the distress its delays with clarifying its position caused Mr B. This would take the total award to £100.

I acknowledge the difficulties encountered previously with paying compensation, due to Mr B not having a bank account at the time. He has advised us he now does, so there should be no issues moving forward in that regard. Alternatively, should Mr B agree, I see no reason why the award can't be directly paid to reduce the amount he owes.

I don't believe that Zilch should remove any adverse information that its recorded to Mr B's credit file. Even where a balance is in dispute, minimum payments should still be made. Mr B has maintained that he would pay what was owed and looking at his communication with Zilch between December 2022 and March 2023 I can't see that he raised any difficulties with paying. Zilch also provided further support options to Mr B to help him manage his account.

Overall while I can appreciate Mr B's reason for disputing the amount owed, I think in the circumstances of this complaint anything negative Zilch may have recorded is a true and accurate reflection of what happened on Mr B's account.

Moving forward I would like to remind Zilch of its obligation to treat Mr B with forbearance and due consideration in relation to the outstanding amount that remains owed."

I invited both parties to respond with new information they wanted me to consider before I made my final decision.

Zilch didn't respond to the provisional decision.

Mr B disagreed and in summary said:

- Zilch should've provided the evidence the two transactions to M had been authorised in the beginning.
- He said he wouldn't be paying Zilch for the two transactions as these were declined, and he would be paying for them twice.
- Mr B explained this has taken a year and been extremely stressful, resulting in him having to go to hospital for stress related issues.
- He said he doesn't want compensation and he will only pay what he feels is owed. That is between £70 and £80.

What I've decided – and why

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

I've set out my provisional findings on this complaint as set out above and I haven't been persuaded that my decision should change. I will though set out my thoughts on Mr B's

reply to my provisional decision.

Firstly, I'm sorry to hear that this situation has caused Mr B to be stressed. I can see why this would be the case, when he feels he is being asked to repay money for transactions that he says he paid via other means. While I fully understand the answer isn't what he wanted, hopefully this final decision will bring some closure to the matter for him. As I said in my provisional decision, I would reiterate that Zilch should treat Mr B with due consideration and forbearance regarding any outstanding amount owed.

Mr B has said feels he only owes £70 to £80 and the two transactions to M should be removed from his account. Given the evidence provided, I remain satisfied that the two transactions were authorised and the money for each paid out to M by Zilch. Therefore, it follows that I don't believe Zilch is acting unfairly in asking Mr B for repayment. Again, as I said in my provision decision, this is something Mr B may wish to take up directly with M.

I agree with Mr B that it would've been reasonable for Zilch to provide the evidence both transactions to M were authorised earlier than it did. I appreciate that in not doing so it has caused Mr B more stress. This is why I recommended Zilch increase its offer of compensation to £100. I understand Mr B doesn't want compensation, but I'm satisfied that this is a fair and reasonable outcome to the complaint.

Putting things right

To settle this complaint, Zilch should do the following:

- Pay Mr B a total of £100 for the distress and inconvenience this matter has caused him

My final decision

I uphold Mr B's complaint and require Zilch Technology Limited to put things right for him as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 February 2024.

Paul Blower
Ombudsman