

## **The complaint**

A company, which I'll refer to as E complain that WorldPay Limited (WorldPay) declined a number of legitimate transactions on its account.

In bringing this complaint E is represented by its director, who I'll refer to as Mr B.

## **What happened**

- In 2005 E signed a Merchant Services Agreement (the Agreement) with WorldPay to process card payments made by its customers.
- From March 2022 Mr B began to notice a significant increase in the number of transactions that were being declined by WorldPay and returned to E with both "soft" and "hard" decline statuses. E has made a separate complaint to this service about the soft decline issue, and I've reviewed that complaint under a separate reference.
- This review, therefore, deals with the "hard decline" transactions only.
- In March 2022 Mr B complained to WorldPay about those transactions. By way of explanation, these were transactions that had been declined and remained unpaid in spite of subsequent re-presentation.
- Mr B told WorldPay that the effect of their actions was that E had suffered financial losses of approximately £30,000.
- After looking into things WorldPay suggested various measures to try and fix the problem – including, as I understand it, a substitution of various codes. WorldPay believed that by around May 2022 this had achieved the desired result. In particular, because according to WorldPay, they received correspondence from E saying that after the introduction of the code they'd suggested, failure rates were much reduced.
- However, according to WorldPay E contacted them again in August 2022 for assistance with its website construction and launch. Discussions then took place up to December 2022 including in connection with the hard decline issue. During those discussions WorldPay suggested yet more fixes which were implemented.
- Mr B disagreed that E's issues were resolved. And he said that in fact WorldPay had been unable to provide clear answers about why E was experiencing the problems it was having. So, E had to engage IT experts to try and determine the reasons. In doing so, Mr B said E incurred significant costs which he believed WorldPay should cover.
- In their final response to the complaint WorldPay acknowledged the hard declines resulted from an error they'd made in the way E's security profile was configured

within their systems. They said this then led to problems when in March 2022, a new and more robust customer authentication regime known as 3D Secure was introduced to comply with the European Union's Payment Services Directive 2 (PSD2).

- And because WorldPay had configured E's account incorrectly, transactions that ought to have bypassed the new 3D Secure process as they were recurring transactions were, instead being caught. In effect therefore, the correct process for identifying recurring payment transactions which typified E's operations wasn't working as it should. In other words, these recurring payments were being identified as initial rather than recurring payments and as such were being caught by the 3D Secure authentication process rather than bypassing it. The result was that such transactions ended up being hard declined.
- WorldPay believed that having looked into the problem and suggested various fixes, by December 2022 they'd been successful in resolving things for E. In other words, E was able to accept recurring payments which previously had been declined owing to the 3D Secure issue. And in addition, as part of their attempt to make sure the problem was finally corrected, E's recurring transaction agreements were migrated to a particular code. WorldPay said from that point onwards, there had been no declined transactions arising from the 3D Secure profile on E's account. And furthermore, that declined transactions that happened subsequently were for other reasons.
- That being said, WorldPay did nonetheless acknowledge that the problems E had experienced meant that E hadn't received the level of service it rightly expected from them. So, to compensate E, WorldPay refunded £1,200.00 to E's account and additionally paid an extra £500 in recognition of the inconvenience this matter had caused. Beyond that, however, WorldPay didn't think they should pay further compensation.

E's complaint remained unresolved however, and so, Mr B referred it to our service.

Our investigator looked into E's complaint. He observed that historically E had always experienced high numbers of hard decline transactions. But he agreed with the parties that from March 2022 there had been a spike. He noted nonetheless that the numbers shown were artificially high, in part, because in some instances transaction attempts were duplicated which in turn gave the impression that the decline were in excess of what they truly were.

Having noted WorldPay's acknowledgement that their error contributed to the hard decline numbers, he was satisfied by WorldPay's evidence that those that were directly linked to that error were 10 transactions altogether. And furthermore, that they took place between March and December 2022 by which time WorldPay had found a fix to correct things. The investigator was satisfied that this equated to an overall transaction value of £1649.90 which he believed WorldPay should refund to E.

Regarding E's claim for the costs of engaging IT experts, the investigator noted an invoice dated 5 May 2022 for £72 that E submitted referencing work with WorldPay. He believed WorldPay should refund the amount.

But the investigator didn't think that WorldPay should be held responsible for any other IT costs. In particular the more substantial amount Mr B said E incurred of around £12,000. He wasn't persuaded those costs were incurred by E because of WorldPay's error. Rather, he

believed they were charges for IT work principally in connection with the building of E's website that had been commissioned in 2021.

However, for what he believed would be a fair settlement of E's complaint the investigator recommended that WorldPay pay E the following:

- £1,649.90 being the transactions that were unfairly declined
- £72 being the IT fee that E incurred on 5 May 2022.
- An additional £500 compensation for the inconvenience caused to E, this being on top of the £500 inconvenience payment WorldPay had already made.

WorldPay accepted the investigator's conclusions. But E didn't. Mr B has asked for an ombudsman to review E's case and it has therefore been passed to me for that purpose.

Mr B has provided further detailed submissions on behalf of E. However, those submissions have largely expanded on the arguments he'd originally made on E's behalf – including the circumstances in which the IT experts came to be engaged and why WorldPay should cover their costs.

I summarise what I regard as the key points Mr B has made - as follows:

- It is unfair that the investigator should limit the date range for compensating E for financial loss from March through to December 2022. Not least because although WorldPay did attempt to remedy the problems E was experiencing, nonetheless they persisted and have continued. So, E has incurred financial loss over a longer period. Compensation should be awarded to reflect that.
- Furthermore, the investigator understated the number of transactions that were unfairly declined because of WorldPay's error. They exceeded the 10 transactions mentioned and valued at £1649.90. And in any case the investigator had said in correspondence the actual figure was 46. E subsequently discovered that the hard declines issue had been occurring long before it was raised in March 2022 and they persisted beyond December 2022.
- E did engage various IT experts to build its website and it eventually settled on one in particular. Nonetheless that company's remit extended to identifying and fixing the payment processing issues E had been experiencing. Especially because WorldPay were suggesting the problems were of E's own making.
- Ultimately the IT company that conducted the bulk of the work was unable to fix the hard decline problems. But it at least identified they were being caused by an inherent defect at WorldPay. It took the company 15 days at costs of £795 per day to reach that assessment.

### **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.

Before I come to my final decision in detail, I will make one or two general points.

Firstly, although in the course of our investigation Mr B has sought to expand its scope to encompass events both preceding March 2022 and beyond December 2022, I do not think this would be fair. The events considered by WorldPay were those that took place between those two dates. Matters that remain of concern to E beyond those dates should rightly be referred to WorldPay to look into separately. They should then be the subject of a final response letter separate from that which was issued on 13 January 2023 which covered the March through to December 2022 period.

Secondly, I've acknowledged above that Mr B has made lengthy submissions in support of E's case. I thank him for the care with which he's prepared those submissions and the clarity of his presentation. Indeed, that is unsurprising because it is clear how strongly Mr B feels about this matter. I've read and considered his submissions. But I've confined my comments to what I regard as relevant. If I've omitted to comment on specific points that Mr B has made it is not because I haven't considered them. Rather, it's because I don't think I need to comment on such points in order to reach what I think is the fair and reasonable outcome in all the circumstances of this case.

Finally, it's worthwhile also adding that in the course of my review where the evidence is incomplete or inconclusive (as indeed some of it is here) I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

I now turn to my review in more detail.

It is not in dispute that E experienced a number of hard decline transactions on its account. Mr B said he first noticed and raised the issue of the increase with WorldPay in March 2022. WorldPay have acknowledged that some of those declines shouldn't have happened and resulted from an error they made, details of which I've already mentioned.

There's broad agreement too that when the problem was first noticed in March 2022 and Mr B complained to WorldPay, WorldPay attempted to find a fix to the problem. But the parties disagree on two main issues:

- Firstly, the extent of the hard decline transactions that resulted from WorldPay's error. Mr B thinks the lost transactions were in excess of the 10 that have been identified. WorldPay disagree.
- Secondly, whether WorldPay should reimburse E with the IT costs E said it incurred by having to engage experts to determine why the declines were happening.

#### *The extent of the hard decline transactions*

WorldPay agree they were responsible for some of the spike in hard declines from March 2022. But they conclude there were 10 affected transactions linked to their error. They arrived at that view having regard to certain indicative codes such as "6" and "R1". In other words, they were able to identify valid reasons for all the other declines apart from those 10. That evidence has been presented in the form of a spreadsheets which is considerable and detailed. It has been shared with E. The spreadsheet also shows re- presentations after initial declines. An example on the spreadsheet of that occurring would be in June 2022 in respect of a customer of E which I refer to as "Mr W" where multiple attempts were made to get the transaction through 3DSecure. But it kept failing and thereby inflated the decline numbers.

So, having looked at the evidence and the wider circumstances, on balance I find it persuasively indicates the 10 transactions were those that were inappropriately declined and did represent losses that were incurred by E. I find that WorldPay should reimburse them to E.

Although Mr B has challenged that number, I've seen no persuasive evidence which supports that challenge. I note he has pointed to a higher figure of 46 declines which the investigator had referred to in correspondence. But on close analysis of the 46 transactions, as explained above, the spreadsheet shows there were a number of duplicates arising from the multiple re-presentation of certain transactions.

I note Mr B has also stated WorldPay didn't find a fix to the problems by December 2022 as they claimed. But I can see on the list of the inappropriate decline transactions that the last of them took place on 22 November 2022 in respect of a customer of E which I refer to as Mr R. That suggests on balance that between March and December 2022 the transaction declines that were linked to WorldPay's error had been solved.

#### Costs of hiring an IT company

I don't doubt that E did commission IT experts and they did engage with WorldPay in 2022 to find a fix to the hard decline problems. The question for me is whether that was the purpose for which they were commissioned. I'm not persuaded that was the case.

One particular company which I refer to as F seemed to have been the main expert that E commissioned. But Mr B acknowledges that F was engaged in 2021 to work on building E's website. And to that end work in association with WorldPay was envisaged. This doesn't support E's submission that it was in the aftermath of the hard decline problems E was experiencing, for which WorldPay had been unable to provide an explanation that experts such as F were called in.

Evidence that E has shared regarding the commissioning of F shows the cost estimate for their engagement was £20,475. And in that cost estimate F described aspects of the intended work as:

"Make Payment/Integrate WP"

That leads me to conclude that it was intended, that as well as the website construction, work in association with WorldPay to integrate payments systems was also envisaged and costs were already built in for that work.

I further understand from Mr B that F was engaged because a previous IT company - which I'll refer to as G, was unable to fully carry out the work that was needed.

It was perhaps inevitable that F would come to be involved in the hard declines issue as it spanned the period of its commission. And I'm satisfied F did work with WorldPay to find a solution - including implementing the fixes suggested by Worldpay. However, I've seen no evidence that F has submitted invoices to E for any extra costs over and above the £20,475 that had been agreed for the work it was undertaking on behalf of E.

In fact, invoices from F that E has shared with us described the work they were for as the "CMS rebuilt project. And they were dated:

- 25/10/21 for £9450
- 02/12/2021 for 9,450

- 13/01/22 for £9450
- 23/11/22 for 9,990

I've also seen correspondence from E to F where Mr B challenges F's October 2021 invoice. He said :

*"I think you may have jumped the gun on issuing this to us as it is not yet due. This is what was agreed with [name] your director – from his email dated 22 October 2021. 3. A condition precedent for the second payment will be completion of the payment integration for... (Worldpay). As at yesterday's date this condition has not been met."*

This in my opinion lends further support to the conclusion F's costs were compiled in anticipation of work that would be needed with WorldPay. I do not find that WorldPay should cover such costs.

By contrast the only separate invoice that E has provided for what seemed to be for work with WorldPay concerning a fix was another IT company which I refer to as G. As noted above it is dated 5 May 2022 for £72. G described the work in that invoice as being for:

"Worldpay fix (reduced to 2 hrs)"

I find that it would be fair for WorldPay to cover this.

That leaves the question of inconvenience.

### **Putting things right**

Mr B has explained he spent a considerable amount of time dealing with WorldPay in the months following March 2022. Correspondence that I've seen from F also explained that Mr B acted as the go between in obtaining suggested solutions from WorldPay to fix the problems. I'm satisfied that the evidence points to significant inconvenience being caused to E which WorldPay's £500 compensation doesn't fully recognise. And so for the reasons given by the investigator I consider that an increase by £500 in the amount is more appropriate

### **My final decision**

My final decision is I uphold this complaint. In full and Final settlement I recommend that WorldPay Limited pay E the following:

- £1,649.90 being the transactions that were unfairly declined
- £72 being the IT fee that E incurred on 5 May 2022.
- £500 compensation for the inconvenience caused to E

Under the rules of the Financial Ombudsman Service, I'm required to ask E to accept or reject my decision before 29 December 2023.

Asher Gordon  
**Ombudsman**