

## **The complaint**

A company, which I'll refer to as E complain that following the introduction of a new customer authentication security system by WorldPay Limited, a number of its transactions were unfairly declined.

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

## **What happened**

The background to this complaint is well known to the parties. So, I won't repeat it in detail.

Briefly, Mr B has told us that:

- In 2005 E signed a Merchant Services Agreement (the Agreement) with WorldPay to process card payments made by its customers.
- In March 2022, he began noticing an increase in the number of transactions that were being declined and returned to E with a "soft-decline" transaction status. In general, this meant that although the transactions had been declined, they were, nonetheless, capable of being re-presented.
- In March 2022 alone for example, transactions that were declined on that basis totalled 61. This was over twice the number of such declines for the previous two months of January and February 2022 where the combined total was 24.
- So, on E's behalf Mr B complained to WorldPay.

WorldPay issued their final response letter to the complaint on 30 March 2022.

WorldPay acknowledged there had been an increase in the soft decline transactions. But they said this was due to the historic set up of E's account. This meant that when in March 2022 a new stronger customer authentication regime, known as 3DSecure came into operation in order to comply with the European Union's Payment Services Directive 2 (PSD2) regulations, E's account wasn't configured appropriately. Therefore, it was unable to accommodate the change.

In short E's account was set up as an e-commerce account to accommodate one off customers. Whereas E used its account for recurring payments in connection with recurring orders. These transactions shouldn't have been subjected to the newly introduced 3DSecure checks. But they were and were failing to pass them.

In any case WorldPay implemented a fix to the problem which resulted in the number of soft decline transactions decreasing. Also, WorldPay compensated E by paying £200 in recognition of the inconvenience caused to E owing to the historic set up of its account. The reimbursed £8.70 in fees also.

WorldPay said that while going forward E's account was set up to accommodate the new security regime, nonetheless 'soft decline' transaction cannot ever be eliminated as they are a part of the e-commerce transaction landscape.

E's complaint remained unresolved, and therefore Mr B referred it to this service to look into.

Our investigator didn't think WorldPay were at fault for introducing 3DS in March 2022 since this was a mandatory requirement under PSD2. And whilst he acknowledged this had led to E experiencing an increase in soft decline transactions, nonetheless, he was satisfied WorldPay had taken steps in March 2022 to fix the problem.

He observed that in the months after March 2022 soft declines had returned to the levels experienced in the months before March 2022. Furthermore, having noted WorldPay had refunded fees that E had incurred arising from the soft decline issue, as well as paying E £200 compensation for the inconvenience that had been caused to E, he felt WorldPay had done enough to put things right.

WorldPay accepted the investigator's conclusion. But E did not and has asked for an ombudsman's review of its case.

On E's behalf, Mr B has provided further detailed submissions on behalf of E. I summarise what I regard as the key points Mr B has made – as follows:

- There were many exchanges of e-mails with WorldPay's technical support team when the error arose.
- The investigator estimated there were 85 soft declines between January and March 2022. Adjusting for normal expectation of such declines to be around 20, E has suffered financial loss of around 65 in total averaging £160. So E's suffered financial loss of around £10,400.
- Moreover, when extrapolated across a period of three years, the loss is even greater. Taking into account that (a) customers would have continued with recurring payments until their card expired and (b) that typically 70% of customers generally renewed their payments, the likely loss to E would be more in the order of £23,000.

### **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 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 them. 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 it but because I don't think I need to comment on it. 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.

It's worthwhile adding also 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.

At the heart of this case is the question of compensation. WorldPay have acknowledged E experienced an increase in soft declines in March 2022 which it reported to WorldPay. The cause of the issue is noted above, and I have no reason to challenge that. In any case it was quickly identified and put right in the same month.

I am satisfied E did experience some inconvenience by the fact Mr B did have to raise the matter with WorldPay, and liaise with the relevant department to find a fix.

That being said, a fix did appear to have been found. The result was that between the months of April to November 2022 the combined total of E's soft decline transactions had fallen to 20.

E however believes that in addition to the £200 WorldPay paid as compensation for the inconvenience this caused, and the refund of the £8.70 fees charged to E for the soft declines, WorldPay should also compensate E for financial loss.

But for me to require WorldPay to compensate E for financial loss as is claimed, I need to be satisfied E did sustain those losses.

To begin with I don't think it would be fair for me to consider compensation by reference to the 85 soft declines that happened between January and March 2022. E had always experienced such declines. I am satisfied that the issue which confronted E in March 2022 and which led to a spike in the levels of soft declines was the introduction of 3DSecure authentication procedure. But, for which, given the nature of the transactions that were being processed on E behalf its account was unprepared in light of WorldPay's error.

But I have to be sure that E did suffer a loss arising from those increased soft decline transactions. On balance, however, I can't be. I say that because those soft decline transactions were capable of re-presentation. I can't be sure that none of them were for which E received the intended benefit. In other words, I don't have anything to indicate that the customers whose transactions were declined were lost to E. And in the circumstances it wouldn't be fair for me to speculate.

I'm not persuaded either that it would be fair to compensate E by reference to the likely actions of those customers who were affected by the soft declines. Not least because I'd have not only to make the assumption, they did not re-present their repayment, but had ceased being customers of E who then was no longer able to benefit from their renewed repayments. I have to base any award of compensation on actual rather than speculative losses which these would be.

### **My final decision**

My final decision is I do not uphold this complaint in the sense that I'm satisfied the £200 WorldPay Limited paid E for inconvenience and the £8.70 refund of charges mean that in the circumstances of this case they have fairly compensated E. I do not therefore require them to take any further action.

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**