

Issue **14**  
May 2009

Adjudicators  
recommendations  
for good practice

## Case Studies<sup>1</sup>

Adjudicators recommendations for good practice:

1. A customer, when applying to CISAS, should think carefully about what they want a company<sup>2</sup> to do. CISAS rule 5f states:

*If the adjudicator agrees with the customer's claim, he or she can tell the company to do any or all of the following.*

- *Give the customer an apology or explanation.*
- *Give the customer a product or service, or take some practical action that will benefit the customer.*
- *Pay the customer an amount up to the amount claimed on the application form, which must be no more than £5000 (including VAT).*

The language of CISAS rule 5f is important because if a customer in their CISAS Application Form replies to the question, 'What do you want the company to do?', by asking for something which is different to the things set out in CISAS rule 5f then an Adjudicator will not be able to direct the company to do it<sup>3</sup>.

2. If a customer opens a second account in error and the company bills for the unused second account by direct debit then it may be fair for the customer to receive a full refund.<sup>4</sup>
3. A customer should take some responsibility on moving house to check the new lines they are taking on are free of old services.<sup>5</sup>

### Case 01

#### No phone service after 14 months

#### No phone service after 14 months

The customer retired from his firm and continued to use his business account for residential purposes. He was not told that this was a problem when he opened a new broadband and

<sup>1</sup> Cases can be referred to by giving the case study edition number followed by the case number. For example, **14:01** is a reference to edition 14 of the Case Studies, Case 01. The Case Studies are summaries of cases they are not the full case. They are merely a guide rather than a precedent. In each case there are circumstances which are particular to that case, which have been considered and have lead to a particular Decision being made by the Adjudicator.

<sup>2</sup> The communication and internet service provider is referred to as, 'the company'.

<sup>3</sup> See below Case Study 14:04 *Failing to establish a claim.*

<sup>4</sup> See below Case Study 14:08 *Opening a second account by mistake.*

<sup>5</sup> See below Case Study 14:09 *Check new house lines free from old services.*

telephone account with a second company. Broadband was connected immediately but the telephone service remained unconnected after 14 months. The customer complained he had had to pay £426.68 charged by the first company for calls because he still had to use their telephone service. The second company maintained that it was only when they had received the customer's CISAS claim that they had been made aware his account was a business account with another company and this was the reason why they could not connect his telephone service.

**The Adjudicator found that the second company should have realised at some point over the 14 months why they could not connect their telephone service to the customer's home and advised him accordingly. Instead they continued to state that the service would be connected and at times had told him that it had actually been connected. The customer was awarded £426.68.**

## Case 02

### Moving house

## Moving house

The customer cancelled broadband and telephone as he was moving house. He was due a small credit of £4.19. Nothing happened and the credit was not paid. The customer exhibited very full correspondence with the company showing their inability to cancel the landline which continued to throw up bills for the unwanted service being provided to the old address of the customer. The customer was concerned that non-payment would lead to credit blacklisting.

**The Adjudicator noted that the company blamed an error of a third party for the impossibility of cancelling the landline but found this did not exonerate the company. The company had to manage their sub-contractors. The company were directed to pay the customer £100.00 for stress caused over 6 months and the £4.19 credit. Any credit referral should be withdrawn and the company should confirm this to the customer in writing.**

## Case 03

### Two accounts set up accidentally

## Two accounts set up accidentally

The customer claimed £607.02 refund for 38 months as a duplicate account had accidentally been set up when an earlier broadband problem had been resolved. The customer was unaware that an additional direct debit was taking place and had not authorised any additional payment. The company maintained that its Terms and Conditions were that billing queries had to be made within 6 months.

**The Adjudicator found that had the payments been manual, not automatic ones by direct debit, the problem of two accounts having been set up would have been apparent much earlier. It was unfair to penalise the customer because the company managed to take additional direct debit payments without her noticing for a long time. A full refund of £607.02 was awarded to the customer.**

## Case 04

### Failing to establish a claim

## **Failing to establish a claim**

The customer complained that the company had put him on a more expensive package than had been agreed.

**The Adjudicator found that this was so, but the customer had failed to establish any claim to overpayment. He had not exhibited any bank statements or bills and the claim was so vague and general that it was not possible to quantify it. It was not even clear that an overpayment had occurred. The customer did not ask for money on his claim for poor customer service, or an apology, or an explanation. The customer simply sought an order that the company's staff be retrained. The claim failed.**

## **Case 05**

### **Old contract continued**

## **Old contract continued**

The customer thought his old contract ended when he took out a new one. Four years later he discovered the company was still charging him.

**The Adjudicator found that the the Terms and Conditions stipulated the old contract continued after the first 12 months until actively terminated (which the customer had not done). Also the old number was still shown on bills. The claim failed.**

## **Case 06**

### **Charging for free line rental**

## **Charging for free line rental**

The customer upgraded his account with the company in order to receive free line rental. The company continued to bill for line rental. The customer made many attempts to resolve the matter. The company apologised explaining that major programming problems stopped the account from being updated, they were trying to resolve the matter but this could take some time.

**The Adjudicator found that the customer had experienced poor customer service. The company was directed to refund the cost of line rental billed as at the date of the application to CISAS and reimburse any future line rental charged until the matter was resolved. The company was to use its best endeavours to update the customer's records ensuring that the problem was resolved expeditiously and that the customer was not charged for the free line rental. Regular updates were to be provided by the company to the customer on the action being taken.**

## **Case 07**

### **Credit limit**

## **Credit limit**

The customer had two mobile phones for his children. Due to a history of large bills for these phones, the customer asked the company to cap the monthly bill at £250.00 but was told this was not possible. The phones were later blocked by the company. The customer claimed £600.00 to cover the call charges incurred as a result of the company's failure to comply with his request. The company maintained that they had no record of the customer asking for a credit limit to be placed on his account. If he had then he would have been advised that the company were unable

to do so as a credit limit was not available for the personal use of customers as a budgeting tool, it was for the benefit of the company.

**The Adjudicator found that under the Terms and Conditions the company had the ability to set credit limits on an account of a customer but it did not currently offer this service to its customers as a budgeting tool. The claim failed.**

## Case 08

### Opening a second account by mistake

#### Opening a second account by mistake

The customer complained that the company had been charging him for broadband and dial-up for about two years from the date he upgraded his old dial-up to broadband online. The customer claimed a full refund. The company refused arguing that the customer had in fact opened another dial-up account at the same time as upgrading his original to broadband and so had entered into two separate contracts. The customer may have made a mistake when upgrading his original account online and had only used one of the accounts since that date.

**The Adjudicator found that the customer did not intend to enter into a second contract. This was sufficient to rebut any presumed intention to create legal relations. The customer was entitled to a full refund for the inadvertently opened account.**

## Case 09

### Check new house lines free from old services

#### Check new house lines free from old services

The customer moved house but did not check the telephone line in the new house was free of old services. In fact there was an existing third party's broadband service on it. The customer complained that the company should have transferred the service. The company maintained that the customer had failed to provide a suitable line.

**The Adjudicator found that the customer had a responsibility to ensure the new house line was free of third party services and useable. The company was not at fault on this issue but were at fault for failing to explain to the customer what was going on over a 6 week period and then ceasing his email service unexpectedly. The company were directed to pay the customer £100.00.**

## Case 10

### Services not transferred to new home in time

#### Services not transferred to new home in time

The customer wanted a refund of £593.06 from the company because they had not transferred his telephone and broadband service to his new home by an agreed date.

**The Adjudicator did not find any evidence to justify the entire amount sought by the customer. The customer was only entitled to £150.00 as damages for stress and the refund of a part subscription of £11.49 which the company had agreed to refund. The total amount awarded was £161.49.**

## Case 11

### Service suspended for suspected fraud

#### Service suspended for suspected fraud

The company suspected fraud on the customer's broadband account and they suspended service for two days. Following an investigation no fraud was found. The company sent the customer a letter of apology, an explanation and a goodwill offer of £100.00 in addition to waiving an early termination fee. The customer wanted £500.00.

**The Adjudicator found the offer of the company to be reasonable and proportionate .**