

The complaint

Mr H complains NewDay Ltd have unfairly sold his credit card debt to a third party.

What happened

In February and March 2019, Mr H told NewDay he was going through bankruptcy proceedings. Mr H said he was told by NewDay his debt wouldn't be sold to a third party.

Mr H said he later discovered NewDay sold his debt to a third party in April 2019. He said he received conflicting information from NewDay about whether the third party had bought the debt - or was just administering it. Mr H was also unhappy a default had been registered with the credit reference agencies regarding the credit card. He said he'd made payments to NewDay in January and February 2019, which hadn't been accounted for. He complained to NewDay.

NewDay said the debt had been sold to a third party they use to administer accounts for customers who have filed for bankruptcy – and it wasn't for the purpose of collecting payment. NewDay said Mr H made them aware he'd applied for bankruptcy, but they also told Mr H they would continue to follow their normal process until they had confirmation the bankruptcy order has been granted.

NewDay said they didn't receive confirmation of the bankruptcy from Mr H until April 2019 and by then they'd already arranged for Mr H's account to be passed to the third party.

NewDay couldn't locate any payments made by Mr H in January or February 2019, but asked Mr H to provide further details. They concluded they hadn't found any errors in how they'd handled Mr H's account but offered him £40 compensation for any inconvenience or upset caused.

Mr H was unhappy with NewDay's response, so he brought his complaint to our service.

Our investigator didn't Mr H's complaint be upheld. She said she hadn't found anything, including in call recordings, that showed Mr H was told the debt wouldn't be sold on. She also pointed to Mr H's credit agreement and she said NewDay acted fairly when they sold the debt to the third party.

Mr H didn't agree with our investigator. He said he was made bankrupt in March 2019 and NewDay sold his debt on in April 2019, so they'd acted unfairly. He said he was never told at any time on the phone they would sell the debt on and they should've given him more time for the bankruptcy documents to be sent over.

The complaint has now passed to me.

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.

Mr H has said he is unhappy a default has been registered. NewDay has said they didn't register a default against Mr H. I can see from the credit file information Mr H has provided, the entry is showing as from the third party. It also appears to show on his file from June 2019 onwards – which is after the third party acquired the account.

So, If Mr H disagrees with the default, he will need to raise it with the third party and I won't comment on it further here.

I'm not upholding Mr H's complaint. I'll explain why.

NewDay have said Mr H's account was transferred to a specialist agent they use in bankruptcy cases- so it's a regular procedure for them to do this. I've looked at a copy of the terms and conditions of Mr H's credit agreement. Under section 19, 'Can we transfer our right and obligations under this agreement?', it says:

"We may transfer our rights and our obligations under this Agreement to someone else, including information about you and how you have managed your account."

So I think NewDay applied the terms and conditions of the policy fairly when they transferred Mr H's account to a third party.

I've listened to the phone calls between Mr H and NewDay that took place in early 2019 and I've not heard anything in these calls that persuades me Mr H was specifically told his account wouldn't be transferred to a third party.

But when Mr H called in March 2019 he was told if any account is in arrears for more than 180 days NewDay would transfer it to a third party, but the process was different when bankruptcy is involved. She didn't specify how it was different - so I can see why Mr H might have been under the impression the account would only be sold after it had been arrears for 180 days.

But the account was transferred to the third party because of the bankruptcy and not because of Mr H's arrears. Mr H said NewDay acted unfairly as the bankruptcy was confirmed in March 2019 and NewDay didn't sell the debt until April 2019. But I can see from NewDay's system notes Mr H didn't provide confirmation of the bankruptcy until after the account had been transferred and I can see Mr H had been made aware when he spoke to NewDay in March 2019 that they would continue processing his account as normal until they received confirmation the bankruptcy had been added to the insolvency register. So I don't think they acted unfairly here.

NewDay offered Mr H £40 compensation and taking into the circumstances, I won't be recommending any further award as I think this fairly represents the upset and inconvenience he's been caused.

Mr H said he made payments to NewDay in January 2019 and February 2019 that haven't been accounted for. NewDay has said they can't locate these payments and has asked Mr H to provide information regarding the payments. I can't see he has provided this to us or New Day – so I'm unable to say he did make these payments.

Overall, I think NewDay have fairly applied their terms and conditions in transferring Mr H's account to a third party and I've not seen any evidence to suggest they told Mr H it wouldn't be. I also think the compensation award of £40 is fair and reasonable in the circumstances.

My final decision

My final decision is that I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 3 July 2020.

Michael Baronti
Ombudsman