

The complaint

Mr K complains that NewDay Ltd trading as Marbles (Marbles) shouldn't have registered a default against him.

What happened

Mr K had a credit card with Marbles. The limit was £5,000. He was in financial difficulty. On 7 January 2020, Marbles agreed a payment plan of £41.95 per month for 12 months. On 11 January 2020, Marbles sent Mr K a Notice of Default for arrears of £358.01. Mr K made the first payment under the payment plan on 2 February 2020. On 4 February 2020, Marbles sent him a termination notice – saying the full balance of £4,955 was due. On 6 February 2020, Marbles wrote to Mr K to say his payment plan was agreed. In July 2020, a default was registered against Mr K for the balance of £4,650. Mr K repaid the account in full in August 2020.

Mr K complained that he was told when he called Marbles that he didn't need to worry about the default notice and to ignore it – as the payment arrangement was agreed. And it wasn't fair to register a default when the payment plan had been agreed. He was now finding it difficult to get a mortgage as a result.

Marbles said they'd acted in line with their terms and conditions. The letters sent to Mr K were clear – and said a default may be registered. They'd listened to the calls and said their agent made it clear that a default may be registered. They later told us that the calls weren't available for us to listen to.

Mr K brought his complaint to us. Our investigator said she thought that Marbles had acted unfairly. They'd agreed a payment plan for 12 months – but still gone ahead with the default for the full balance. There was no evidence in the letters sent to Mr K that a default may be registered - only that the payment plan might be noted on his credit file. She couldn't listen to the calls as they weren't available. So, on the balance of evidence she said that Marbles should remove the default from Mr K's credit file and also pay him compensation of £100 for distress and inconvenience.

Marbles disagreed and asked that Mr K's complaint be looked at by an ombudsman.

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 K was struggling with his finances and contacted Marbles in December 2019 to discuss what to do. Marbles agreed a 12-month payment plan for him with zero interest – and payments of £41.95 per month - and this was confirmed in writing in their letter dated 7 January 2020. But the letter also said it wouldn't come into effect until the first payment was made. I can see Mr K made his first payment of £41.95 on 2 February 2020 – and the plan was confirmed by Marbles in their letter dated 6 February 2020. So – that should've been how matters then went forward.

The letter sent to Mr K on 7 January 2020 said *“You have told us that you are currently able to make reduced repayments of £41.95 per month and so we will set up a payment arrangement once we receive your first payment... We may also let credit reference agencies know you are on a payment arrangement which may make it harder for you to get credit in the future.”*

The letter sent to Mr K on 6 February 2020 said *“We can confirm that we have set up a payment arrangement for £41.95 per month with the interest rate reduced to 0%.... We will review your account within the next 12 months either at a time we have arranged when setting the plan, or at the end of 12 months... We'll also let credit reference agencies know if you have missed payments which may make it harder for you to get credit in the future. We may also sell your account to a debt purchaser who would then own your outstanding debt and take over the responsibility for collecting it.”*

So – the letters confirmed the 12-month payment arrangement – and advised that it may be noted on Mr K's credit file. And that action might be taken if he missed payments – which he didn't. There wasn't any reference to defaulting Mr K.

But – at the same time, Marbles also sent to Mr K a Notice of Default on 11 January 2020 – saying that he had to make payment of £358.01 by 1 February 2020. So – this was at odds with the payment plan they'd agreed. And they then also terminated his account on 4 February 2020 and asked for the repayment of the balance of £4,955 immediately.

I can see that Mr K continued to make the monthly payments of £41.95 in March 2020 and April 2020. His payments then increased to £71.34 in May 2020, £57.98 in June 2020 and £50 in July 2020. So – Mr K was meeting the agreed payments. But Marbles still went ahead and registered a default in July 2020 for the full balance of £4,650. This seems to have been at odds with the payment plan that was agreed.

Mr K says that when he called Marbles after he'd received the Notice of Default, he was told to ignore it – as the payment plan had been agreed. Marbles say they told him on the calls that a default may still be registered. The calls aren't available for us to listen to. But regardless of that, it seems to me that it wasn't fair for Marbles to register a default – when they'd agreed a payment plan – and Mr K was meeting the terms of it. There seems to have been a confusion at Marbles which led to Mr K being defaulted at the same time as he was meeting the terms of the payment arrangement. It's not disputed that the payment arrangement could be noted on Mr K's credit file.

Mr K has told us that he's had problems getting a mortgage because of the default. It's difficult to be certain that's the case – but I'm sure it hasn't helped.

Putting things right

Because Marbles shouldn't have registered a default when they'd agreed a payment plan with Mr K, it's only fair that they remove the default from his credit file. And – as it's possible (but not certain) the default has meant he's had problems getting a mortgage, I agree that he should receive a payment of £100 for distress and inconvenience.

(continued)

My final decision

I uphold this complaint.

NewDay Ltd trading as Marbles must:

- Remove the default from Mr K's credit file.
- Pay Mr K £100 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 8 June 2021.

Martin Lord
Ombudsman