

## **The complaint**

Mr C complains that NewDay Ltd trading as Debenhams closed and defaulted his credit card account and recorded this information on his credit file.

## **What happened**

Mr C held a Debenhams branded credit card which was provided by NewDay Ltd.

Mr C says that, in early 2020, he applied for a loan from another lender in order to repay the outstanding balance on his Debenhams credit card. And that he tried to keep NewDay updated on the progress of his application but, due to the Covid-19 pandemic, he was unable to get through to speak with a representative.

In June 2020, he says he received a letter - dated April 2020, and it was only at this point he found out that NewDay had defaulted and closed his account. So, he complained to NewDay.

NewDay didn't agree that it had administered Mr C's incorrectly. It says Mr C contacted it in July 2019 to say he was experiencing financial difficulties. And that a repayment arrangement was agreed - £100 per month for six months. But it goes on to say that only one payment was received. So, it sent Mr C an arrears letter and Default Notice - in November 2019. And, subsequently, a Notice of Termination was issued in December 2019.

Mr C referred his complaint to us, and it was passed to an investigator. But she didn't think NewDay had done anything wrong. She thought NewDay had acted in line with the regulations in place for dealing with an account in arrears. So, she didn't uphold Mr C's complaint.

Mr C didn't agree. He acknowledged that he'd had problems maintaining his account before 2020. But he said the Covid-19 pandemic had made it difficult for him to contact NewDay. He wanted the default removed so he could apply elsewhere for a loan to repay the credit card balance. But the investigator maintained that the default had been registered correctly.

As agreement couldn't be reached, Mr C's complaint has been passed to me to make a final decision.

## **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.

This includes the terms and conditions of Mr C's account - which he would have agreed to when he entered the credit agreement. These say that Mr C's account can be ended *'if you fail to pay contractual payments on time'* And that NewDay can *'disclose information about*

*you and the conduct of your account to licensed credit reference agencies (which would make it more difficult for you to borrow in future)'.*

And, as the investigator explained, the guidance from the Information Commissioners Office (ICO) says that a lender can record an account as being in default if the account holder doesn't keep up with payments and this can generally happen when the account is between three to six months in arrears.

Having taken the above into account, I'm sorry to disappoint Mr C, but I haven't been persuaded that NewDay acted unfairly in this case. I'll explain why.

It's not in dispute that Mr C fell into financial difficulty in 2019 – the call recordings I've listened to between NewDay and Mr C make that clear. And I empathise with Mr C given the circumstances and events he outlined during these calls.

I can see that NewDay took these circumstances into account and agreed a six-month payment plan at 0% interest to help Mr C during this difficult time. In doing so, I think NewDay was meeting its obligations to treat Mr C positively and sympathetically given his situation.

But I note that Mr C only made one payment during the six-month payment plan. So, I don't think NewDay did anything wrong when it sent an arrears letter, Default Notice and Termination Letter to Mr C in late 2019 – this is within the ICO guidelines mentioned above. And the letters explain what Mr C needed to do to get his account back on track and what action may be taken if this didn't happen – including the impact on Mr C's credit file.

I note Mr C says he hadn't been made aware that this action would be taken before a letter he received in June 2020. But the letters issued by NewDay are addressed correctly and were sent on separate dates. While post can go astray from time to time, I think it's unlikely that all the letters would have failed to reach Mr C – particularly, as these were sent before there had been any impact on the postal system from the Covid-19 pandemic.

Furthermore, I note that Mr C called NewDay in January 2020. So, I think it's likely he was calling as he was receipt of at least one these letters mentioned above. Even if that wasn't the case, having listened to the call recordings between NewDay and Mr C in January 2020, I'm satisfied that NewDay explained at this point that his account had been terminated.

I also note Mr C was referred – during this call, to NewDay's customer care team. A 30-day hold was placed on Mr C's account to enable him to complete and income and expenditure form so that NewDay would be able to assess Mr C's financial circumstances. And it was confirmed that while the hold was in place no payments were required. This is what I would expect a lender to do when an account holder is experiencing payment problems so that a way forward for repayment of the debt can be fairly agreed. But I'm satisfied that the customer care team confirmed that the conduct of the account would have a negative impact on Mr C's credit file.

So, overall, I'm satisfied that Mr C was aware of the action NewDay had taken and the impact this and how the account had been managed would be reported on his credit file. I'm also satisfied that NewDay was continuing to meet its obligations to treat Mr C's financial problems positively and sympathetically.

I can't see that Mr C returned the income and expenditure form at this stage. So, I don't think NewDay did anything wrong when it wrote to Mr C to notify him that it was registering the default of his account in March 2020.

I note Mr C has said he had difficulty contacting NewDay due to the pandemic. But the Default Letter was sent prior to the UK lockdown. And I can see that Mr C contacted NewDay - in April 2020, to tell it that he was trying to obtain a loan from elsewhere to pay off the outstanding balance. But this was after the 30-day day hold had expired and the income and expenditure form had not been returned. And having listened to this call, I note Mr C mentioned receiving the Default Letter – so I think Mr C was aware of the action NewDay had taken.

I can see that NewDay agreed a further payment holiday for one month. And the call recording confirms that NewDay explained this meant Mr C's account would be frozen during this period. But it also explained that the payment holiday would expire on 6 May 2020 – and that Mr C needed to contact it before this date to discuss next steps. It also explained that if the debt couldn't be repaid collection activity would recommence.

Ultimately, it seems Mr C wasn't able to obtain a loan. But I note from NewDay's records that a further repayment plan was agreed with Mr C. So, overall, I think Mr C was able to contact NewDay to discuss his account. If Mr C is unable to meet the terms of this arrangement, I would urge him to discuss the matter further with NewDay.

I understand that the crux of this complaint is the default recorded on Mr C's credit file, and that he wants the default removed. I can understand why Mr C would like NewDay to remove the default from his credit file - doing so may mean he would be able to successfully obtain a loan to repay the credit card balance. But I can only fairly ask NewDay to remove the default if it had been recorded incorrectly. And I think the information recorded accurately reflects the conduct of Mr C's account. So, I can't say NewDay acted wrongly in recording this information.

I'm sorry to disappoint Mr C as I do empathise with him – it's clear he's been going through a difficult time. But, in this case, I think NewDay followed the regulations it is required to in such circumstances and that Mr C was aware of the action being taken.

Overall, I'm satisfied NewDay took a fair decision to terminate and subsequently default Mr C's account in line with the terms of the account. I'm afraid I haven't found grounds to uphold Mr C's complaint.

### **My final decision**

For the reasons given above, my final decision is that I don't uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 August 2021.

Sandra Greene  
**Ombudsman**