

The complaint

Mrs M complains that NewDay Ltd should have registered a default on her account earlier than it did.

What happened

Mrs M had a credit card account provided by NewDay. Towards the end of 2017, she found herself having financial difficulties and then missed some payments due on her account. She started a debt management plan in February 2018, and made an offer to pay NewDay £150.98 a month towards her balance.

Unfortunately, her situation got worse and by August 2018, she needed to reduce the payments she was making to £7.25 a month. A new arrangement to pay was agreed, but arrears built up on her account. NewDay registered a default on her account in May 2019. But Mrs M felt that her account should have defaulted before then in February 2018, after she had missed three months of payments and had begun the debt management plan. Mrs M feels that this will impact on her credit record for an additional year.

NewDay said that Mrs M's offer for the repayment arrangement was more than 1% of the balance on her account which meant the outstanding arrears were removed and fees and interest was frozen. This was then maintained, but when her repayments reduced to £7.25 her account went back into arrears and then her account was sent to its debt recovery unit in January 2019.

It said Mrs M's offer to pay £7.25 was less than 1% of the balance, and so the arrears began to build on the account. It said a letter had been sent to Mrs M in April 2019 to say that a default would be registered unless the arrears were settled, and this happened the following month when her account was sold onto a third party. It said an account wouldn't default until it was 180 days in arrears, which didn't happen until May 2019. NewDay said that it wouldn't backdate the default for Mrs M.

However, NewDay found that in its initial response to Mrs M's complaint, it had made a typing mistake when it referred to the dates of the default. It apologised for this and offered Mrs M £30 by way of compensation.

The investigator's opinion

One of our investigators looked into the complaint but didn't think it should be upheld. She said that lenders will always look to work with consumers and try to prevent a default by setting up a payment arrangement, such as the one Mrs M had with NewDay. The investigator said that NewDay had been prepared to accept Mrs M's offer to repay £150.98 a month, but arrears began to build-up when this was reduced to £7.25 a month. The investigator found that Mrs M's account hadn't defaulted sooner as the amounts she was paying affected the calculation of the length of time she was in arrears.

The investigator said that the default process started from when Mrs M's repayments towards the debt reduced to £7.25 a month in September 2018. She said that the required letters giving notice of the default were sent within the correct time frames and thought that the default date of May 2019 was right.

Mrs M didn't accept the investigator's findings and asked for the complaint to be reviewed. She said NewDay not defaulting her account earlier has made her situation worse in the longer term. She said that she believed the creditor should default within three to six months from the time the financial difficulties began and reduced payments were made. She said if she had started off by paying £7.25 a month she would've been in a better position and feels she is being penalised for offering more.

My provisional decision

I issued my provisional decision on this complaint in September 2021. In summary, I thought it should be upheld.

I said that I could appreciate why Mrs M believes that NewDay should have defaulted her account when she first began experiencing financial difficulties. And I could see that she proactively looked for help during this time by approaching a debt management company and making an offer to NewDay to accept a reduced payment for her account.

Although this amount was less than her minimum monthly payment, NewDay accepted the proposal – removing the arrears and stopping any further fees and interest from being applied to the balance.

Having considered the actions it took alongside the aim of Mrs M making the payments towards reducing her debt, I thought this was reasonable in the circumstances. Maintaining these payments may have meant that Mrs M could have avoided the default on her account, reduced her overall debt or may have given her sufficient time to be in a position to make the full amount of the minimum required payment for the credit card balance.

I said that although I could understand why with hindsight Mrs M may feel that backdating the default would mean it would remain on her credit record for a shorter period of time, I didn't think NewDay should be required to do this when I thought it followed its normal processes at that particular time, and an arrangement to pay had been agreed.

Having said this, I thought that NewDay should have looked to default Mrs M's account earlier than it did. This was because her account arrears began to build up on again once she missed making a payment in September 2018. She then needed to reduce the payments she was making to £7.25 a month, which was significantly less than she had been paying.

NewDay explained that its process is that an account will default after 180 days in arrears. But the actual date NewDay defaulted Mrs M's account was around 75 days longer than this. It told us that this is because each payment Mrs M made towards her balance took time off the days in arrears.

I accepted that NewDay applied its normal business processes here. I said I wasn't telling it to change those. But in the particular circumstances, I thought this led to an unfair outcome for Mrs M.

I said this was a case where I thought NewDay could have acted more quickly as it was clear that Mrs M's situation wasn't going to improve. NewDay wrote to Mrs M in September 2018 about her persistent debt as, in the previous 18-month period, she'd paid more in interest, fees and charges than she'd paid towards her balance.

NewDay sent Mrs M a default notice on 27 December 2018, asking her to clear her arrears by 17 January 2019, which she wasn't able to do. NewDay then sent Mrs M a letter to say that her account was being terminated on 19 January 2019. And I thought NewDay should've looked to default Mrs M's account at that date. By this time, Mrs M had been in persistent debt for a significant period of time and it was clear that she wasn't going to be in a position to bring her account back in line in a reasonable time frame.

I said I was pleased to read that Mrs M now feels that she is in a better financial position and has been able to repay her debts. And I could understand why this particular default clearing from her credit history 18 months earlier would go some way to helping her further rebuild her credit record.

Overall, I thought NewDay has applied the default to Mrs M's account correctly, and I didn't think it should be required to backdate this to when she initially offered a reduced payment towards her credit card balance. However, I thought it should've recognised that Mrs M's situation wasn't going to improve to the extent that she would be able to meet the required monthly payments on her account and so I said it should backdate the date of her default to 19 January 2019 when her account was terminated.

NewDay offered to pay Mrs M £30 compensation to recognise the mistake in the dates included in its letter to her and I thought that was reasonable in the circumstances.

The responses

NewDay responded to say that it had no further points to add.

Mrs M responded to say that she agreed with my provisional 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.

As Mrs M accepted my provisional decision, and NewDay has said that it has nothing further to add in response, I see no reason to depart from the conclusions that I reached in that decision.

My final decision

My final decision is that I uphold this complaint and require NewDay Ltd to backdate the registered date of the default on Mrs M's account to 19 January 2019 for the reasons I set out above. I also ask NewDay Ltd to pay Mrs M £30 for the incorrect dates in its letter, as it has already offered to do.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 6 December 2021.

Cathy Bovan

Ombudsman