

The complaint

Mr D is unhappy that NewDay Ltd didn't set up payment holidays on his accounts when he first requested them and that NewDay then reported missed payments on his account to the credit reference agencies. Mr D is also unhappy that NewDay later defaulted his accounts for non-payment whilst he was disputing the amount outstanding on the accounts.

What happened

Mr D had two credit accounts and one loan account with NewDay. In March 2020, Mr D sent an email to NewDay advising that he was temporarily unable to work because of the impact of the Covid-19 pandemic and requesting three-month payment holidays on his accounts.

NewDay responded to Mr D and advised that the identity verification (IDV) information that Mr D had provided in the email wasn't sufficient for the email request to have passed security and be actioned, and NewDay requested further IDV information because of this.

Mr D wasn't happy that NewDay hadn't accepted his IDV information, especially as the April 2020 payment due date on his accounts had now passed, meaning that NewDay were now reporting those payments as being missed. So, he raised a complaint.

NewDay looked at Mr D's complaint and acknowledged that had they looked at the information they held on all of Mr D's accounts, rather than just one, that there had been enough IDV information in the initial email that Mr D had sent for him to have passed security such that the payment holiday requests should have been actioned.

NewDay apologised to Mr D for this, and they agreed to set up payment holidays on all three of his accounts – starting 8 April, 1 May, and 11 May 2020 respectively. NewDay also agreed to remove the adverse credit reporting from Mr D's credit file for April 2020, and reimbursed some interest and charges to Mr D's account, as well as made a payment of £50 to Mr W to compensate him for the trouble and upset he'd incurred.

Mr D wasn't satisfied with NewDay's response and didn't feel that all his concerns had been addressed. Mr D also felt that the balances of his accounts remained incorrect and continued to dispute these with NewDay.

The three-month payment holidays came into effect on all three accounts, and as the end of these payment holidays approached, NewDay sent letters to Mr D advising him of this and confirming when the payments on his accounts would resume.

When the three-month payment holidays ended, NewDay didn't hear from Mr D to arrange the resumption of his payments. And because NewDay considered the accounts to have been in a state of arrears when the payment holidays had started, NewDay sent default notices to Mr D in August 2020 which stated the arrears on each account and also when these arrears needed to be cleared by in order for the account to avoid being defaulted.

Mr D didn't make the payments necessary to clear the arrears within the time given by the default notices, and so NewDay defaulted Mr D's accounts for non-payment in September

2020. The defaulted accounts were later sold by NewDay to third-party companies.

Around the time that the time that the accounts were defaulted, NewDay wrote to Mr D again, having reopened his complaint, and confirmed that further credit file amendments had been made for his accounts to remove any adverse information that had been reported by NewDay for the months of May, June, and July. NewDay also acknowledged that their communication with Mr D about his accounts could have been clearer, and so they apologised to Mr D for this and made an additional compensation payment of £65 to him.

Mr D wasn't happy with how NewDay had managed and defaulted his accounts, so he referred his complaint to this service. One of our investigators looked at this complaint. But while they acknowledged that NewDay had made errors in how it had handled Mr D's accounts, they felt that the corrective action that NewDay had undertaken, as well as the compensation NewDay had paid, already represented a fair and reasonable resolution to what had taken place.

Additionally, because Mr D hadn't made any payments towards his accounts following the end of the payment holidays, our investigator felt that it was fair and reasonable that NewDay defaulted the accounts.

Mr D remained dissatisfied, so the matter was escalated to an ombudsman for 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.

I issued a provisional decision on this complaint on 25 March 2022 as follows:

Having considered all of the information available to me here, I feel that NewDay didn't handle Mr D's request for payment holidays as they should have done – including how NewDay later set up the payment holidays and considered the outstanding balances of Mr D's accounts – and I will be provisionally upholding this aspect of Mr D's complaint and instructing NewDay to pay further compensation to Mr D as a result.

However, while I can appreciate that Mr D may have disputed the amounts listed by NewDay as being outstanding on his accounts, this dispute doesn't absolve Mr D of the responsibility to have made ongoing payments to the accounts. And because Mr D didn't make any payments to the accounts following the end of the payment holidays set up by NewDay, I don't feel that it was unfair or unreasonable for NewDay to ultimately default the accounts for non-payment as they did. I will now address each of these points in turn.

Mr D's request for payment holidays on the accounts

NewDay have acknowledged that the email they first received from Mr D on 28 March 2020 did include sufficient IDV information for the email to have passed security – had NewDay attempted to verify this information against all of Mr D's accounts rather than just one account, on which Mr D hadn't updated his address details.

As such, I don't feel that it's in disputing that when NewDay did eventually acknowledge Mr D's email request as having passed security, that they should have

set up three-month payment holidays on Mr D's accounts backdated to the beginning of April 2020. Indeed, I note that in NewDay's correspondence with this service, they state that the further amendments that NewDay made to Mr D's credit file was done in order to put Mr D in the position that he should have been in had NewDay actioned his payment holiday requests when they were first received in March 2020.

But NewDay don't appear to have put Mr D's accounts in the position that they should have been in here, and instead set up payment holidays on two of Mr D's accounts which started in May 2020, meaning that the April 2020 payments on those accounts were considered as being missed.

This meant that NewDay considered that these accounts were already in a state of arrears when they entered the three-month payment holidays that NewDay set up. And having his accounts fall into arrears such as this was exactly what Mr D was trying to avoid when he made the payment holiday requests to NewDay in March 2020.

Confusingly, NewDay also agreed to remove the adverse credit reporting on Mr D's accounts for April 2020. As such it appears that NewDay were reporting to the credit reference agencies that Mr D wasn't in arrears for the month on April 2020, while they themselves did consider Mr D to be in arrears for that month.

Additionally, because NewDay considered Mr D's accounts to be a state of arrears before, and therefore during, the three-month payment holidays, this meant that when the payment holiday period ended, NewDay still considered the accounts to be in arrears – which resulted in NewDay beginning default proceedings on these accounts more quickly than should have been the case had the accounts not been considered in arrears at that time.

Ultimately, I feel that NewDay should have ensured that the payment holidays that they set up on Mr D's accounts were backdated to cover the April, May, and June payments that were due on those accounts. And by not doing this, I'm satisfied that NewDay have caused a degree of distress and inconvenience for Mr D that should reasonably have been avoided.

Mr D has confirmed to this service that he found trying to communicate with NewDay at this time to be very frustrating, and I'm satisfied that Mr D did make ongoing reasonable efforts to explain to NewDay why he disputed the balances of his accounts, albeit without success. And in consideration of these points, I will be provisionally upholding this aspect of Mr D's complaint and instructing NewDay to pay Mr D a further £450 compensation, above that which they've already paid, which I feel more fairly reflects the amount of trouble and upset that Mr D incurred.

NewDay's defaulting of the accounts

Had Mr D resumed the contractual payments that became due again on his accounts when the payment holidays came to an end, then I would almost certainly be finding entirely in his favour here. However, Mr D didn't resume making these payments, and while I can understand that Mr D was in continuing dispute with NewDay for the reasons outlined above, this doesn't absolve him of the responsibility to have made the monthly payments to the accounts that were due.

And because Mr D didn't make the payments that were due on the accounts, I find it difficult to conclude anything other than that NewDay acted fairly and reasonably by ultimately defaulting these accounts for non-payment. And as such I won't be

upholding this aspect of Mr D's complaint.

As explained above, I do feel that NewDay made errors in how they managed these accounts, including that NewDay considered the accounts to be in arrears when they entered and exited the payment holidays, which I don't feel should have been the case. But as also explained, I don't feel that these errors fairly warrant the removal of the defaults that NewDay have reported here.

Had it been the case that NewDay did apply the payment holidays to begin in April 2020, so that no arrears were considered to have accrued on the accounts before they entered the payment holidays, this would have meant that Mr D would have needed to have resume his payments in July 2020. Consequently, this would have meant that NewDay could have begun default proceedings – which in many cases can reasonably begin when three months of arrears have accrued on an account – in October 2020, such that I feel that the accounts could have reasonably been defaulted by NewDay shortly afterwards.

Mr D's accounts were defaulted by NewDay in September 2020, which is a few months earlier than I feel should reasonably have been the case. Because of this, I won't be instructing NewDay to amend the dates of default on the accounts, and this is because the dates of default that currently stand are earlier than any amended default dates would be, meaning that the current defaults will cease being reported on Mr D's credit file sooner than would be the case if amendments were made – which is to Mr D's benefit.

Summary

I will be provisionally upholding this complaint in Mr D's favour on the limited basis that NewDay didn't fairly manage his request for payment holidays on his three accounts, and I am instructing NewDay to pay Mr D a further £450 compensation for this reason.

However, given that Mr D didn't make the payments that became due on his account when the payment holidays ended, I don't feel that NewDay acted unfairly by following the subsequent process that they did, including the eventual defaulting of those accounts.

In my provisional decision letter, I gave both Mr D and NewDay the opportunity to provide any comments or new information they might wish me to consider before I moved to a final decision. Both Mr D and NewDay did provide points for me to consider, and this led me to issuing an updated provisional decision letter on 13 April 2022.

In their response to my initial provisional decision letter, NewDay explained that while they understood why I was provisionally upholding the service aspect of this complaint, they felt that the additional compensation amount of £450 I had provisionally instructed was too high and expressed concern that it might set a precedent for similar awards moving forwards.

I responded to this point as follows:

I can appreciate NewDay's concerns here, and I'd like to reassure them that this service doesn't instruct compensation on the basis of precedent. Rather, each complaint is assessed – and each instruction of compensation is issued – on the individual merits of that complaint. This includes an assessment of the impact of the complaint on the customer.

In this instance, I've considered the ongoing nature of this issue and the number of times Mr D attempted to communicate with NewDay about it. I've also considered Mr D's detailed testimony to this service in which he explains how the ongoing nature of this issue became more and more stressful and frustrating for him to deal with. And in consideration of these points I continue to feel that Mr D has incurred a significant amount of unnecessary distress and inconvenience here, and as such I will be continuing to provisionally instruct a further compensation payment of £450.

In his response to my initial provisional decision, Mr D acknowledged that he didn't make any payments towards his accounts when the payment holidays ended but questioned how he was supposed to make payments towards the accounts, given that he was in dispute about the account balances.

I responded to Mr D's point as follows:

I can appreciate Mr D's position here, to a degree. But the fact that Mr D disputed the account balances didn't absolve him of the responsibility to make payments towards the accounts, regardless of whether he felt the amount of the payments that NewDay were requesting were correct or not.

If it were the case that Mr D had made payments towards the accounts to the amounts that he reasonably felt was owed on each of them, then I might have taken a different view here. But Mr D made no payments towards the accounts following the end of the payment holidays, and so I remain satisfied that it was fair for NewDay to have followed the collections processes that they did, which ultimately led to the defaulting of the accounts.

Mr D also questioned the dates of the defaults on his accounts, and noted that rather than being defaulted in September 2020 – as I had referenced in my initial provisional decision letter – the accounts were actually defaulted in November 2020 and January 2021.

It was this point about the default dates led me to change my position on this complaint slightly, and I responded to this point as follows:

In my provisional decision letter, I explained that had the payment holidays been set up as I felt they should have been, that NewDay could have reasonably begun default proceedings in October 2020, and that the accounts could have been defaulted by NewDay shortly after.

I note that one of Mr D's accounts was defaulted by NewDay on 30 November 2020, with the other two accounts both defaulted on 31 January 2021.

The November 2020 default date seems reasonable here and is in line with what I would feel should have been the case. However, the January 2021 date seems somewhat late, and so I will be updating my provisional instruction to include that NewDay must amend the default dates of these two accounts so that they also show as having been defaulted on 30 November 2020. This also has the effect of aligning the three accounts, which I feel should have been the case had they all benefited from the payment holidays that I remain satisfied they should have.

In this second provisional decision letter, I again gave both Mr D and NewDay the opportunity to provide any comments or new information they might wish me to consider before I moved to a final decision. NewDay confirmed that they had nothing further to add, and while Mr D did reiterate his disagreement surrounding his not resuming payments on the account following the end of the payment holiday, he hasn't provided any new information that leads me to consider revising my position on this point.

As such, I can confirm that my final decision here is that I am upholding this complaint in Mr D's favour on the basis as outlined in my second provisional decision letter.

Putting things right

NewDay must amend the default dates of two of Mr D's accounts so that all three accounts show as having been defaulted on 30 November 2020.

NewDay must also make a further payment of £450 to Mr D to compensate him for the trouble and upset that he's incurred.

My final decision

My final decision is that I uphold this complaint against NewDay Ltd on the basis explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 6 June 2022.

Paul Cooper
Ombudsman