

The complaint

Mr A complains that NewDay Ltd trading as Aqua Loans (“NewDay”) reported arrears and late payments on his credit file even though he’d maintained payments under an agreed payment plan.

What happened

Mr A applied for and was granted a loan with NewDay which was opened in January 2019. The loan agreement required 35 repayments of £242.60 followed by a final repayment of £242.50.

Mr A maintained his contractual repayments up to February 2020 when he contacted NewDay. He said he was experiencing financial difficulties and asked for support from them until he could resolve his situation. NewDay reviewed Mr A’s income and expenditure and agreed a temporary payment plan of £27.90 per month.

Having maintained payments under the payment plan, Mr A later identified and thought that NewDay had reported the position on his loan incorrectly to the credit reference agencies. He was also unhappy with the service received from NewDay in trying to resolve the situation. So, in September 2020 Mr A complained to NewDay.

NewDay responded to Mr A’s complaint in October 2020. They apologised for the service he’d received from them and offered a credit of £70 to cover the trouble and upset caused. But NewDay didn’t agree they’d done anything wrong when they reported the arrears that had accrued on his loan. They also said they wouldn’t be able to remove late markers reported. They said that when the payment plan was agreed, they’d told him what would be reported.

In November 2020, Mr A complained to NewDay again. He didn’t agree that the information reported on his credit file by NewDay was correct and they shouldn’t have reported missed payments from September 2020. NewDay agreed to investigate further.

NewDay responded to Mr A in December 2020. They said they’d identified a technical problem with the information reported between March and September 2020. They apologised and offered a further £80 to cover the trouble and upset caused. NewDay confirmed again that Mr A had been told that missed payments would be reported on his credit file when they agreed the payment plan in February 2020. They also said he was told that the payment plan was for an amount less than his contractual repayment and so arrears would also be reported.

Mr A didn’t agree with NewDay’s findings. He thought NewDay should remove the late payments and arrears reported as he’d made all the payments agreed under the payment plan. So, he referred his complaint to this service.

Having considered all the evidence and information, our investigator thought NewDay hadn’t acted fairly. Our investigator thought NewDay should amend the information they’d reported to show an arrangement was in place and should remove any missed payments and defaults added after that point.

NewDay didn’t agree with our investigator’s findings. They insisted that the information reported was accurate and complied with their email to Mr A in March 2020 which confirmed the payment arrangement. They also said that a further arrangement was agreed in

February 2021 for payments of £349.34 to ensure the accumulated arrears on Mr A's loan would be repaid. But Mr A didn't maintain those payments, resulting in a default notice being issued.

As an agreement couldn't be reached, Mr A's complaint has been passed to me to consider.

I reached a different outcome to that of our investigator. Because of that, I issued a provisional decision on 15 June 2022 – giving both Mr A and NewDay the opportunity to respond to my findings below before I reached a final decision.

In my provisional decision, I said:

In their response letters to Mr A's complaints, NewDay accepted that he didn't receive the expected level of service. They'd also identified that they'd incorrectly reported information on Mr A's credit file between March and September 2020. NewDay paid a total of £150 and corrected the information recorded. This is what I would expect, and the compensation paid does feel fair here. So, I shan't consider these aspects further.

But Mr A is unhappy with the information that remains on his credit file. Our investigator referred to the Information Commissioner's Office (ICO) Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies (PRAAD). These principles set out the circumstances under which a business should report information on an individual's credit file together with the information required. Adhering accurately to those principles is important because it ensures that both existing and prospective lenders can see how an individual has managed their credit historically.

The payment arrangement agreed between NewDay and Mr A was a temporary one, to provide time for Mr A's financial circumstances to improve. Ultimately, it was agreed for a total of six months and confirmed by NewDay in an email on 2 March 2020. That email said, *"We'll let Credit Reference Agencies know about this payment arrangement. As the amount you will now pay each month is lower than your contractual monthly payment, the arrears on your account will continue to increase and we're required to send you notices relating to your arrears. We may also send you a Default Notice and a notice of our intention to register a default with Credit Reference Agencies."*

Principal 3 of PRAAD says, *"Should a temporary reduction in the payment amount be jointly agreed between you and your lender, this 'arrangement' will be recorded at the CRAs".* It goes on to say, *"Depending on the period and amount of the arrangement, arrears may continue to be reported...For such accounts arrears may continue to be calculated in accordance with the contracted terms".*

The exception is where there's a *"permanent change in the payment terms"* which would normally be subject to *"a new agreement"*. Here, as long as *"the revised terms are complied with, arrears will not accrue further or be shown"*.

As I mentioned above, Ms A's arrangement with NewDay was a temporary one. So, under the ICO's principles, NewDay were right to report any unpaid difference between the contractual repayment and the arrangement as unpaid arrears. So, while I realise Mr A will be disappointed, I can't reasonably say that NewDay made a mistake here.

In February 2021, a new arrangement was agreed whereby Mr A would pay his contractual monthly repayments of £242.60 together with an additional £106.74 each month. The additional amount was to address the arrears that had accumulated during the original reduced payment arrangement. But NewDay have said that Mr A didn't maintain repayments under this arrangement, so a default notice was issued.

Mr A says that he isn't happy with NewDay's decision to issue a default notice. But this doesn't form part of his original complaint. So, as NewDay haven't addressed this within their response letters to him, I'm unable to consider this aspect further. In the event that Mr A remains unhappy, he should first direct his complaint to NewDay to consider.

I appreciate that Mr A will undoubtedly have been very worried about his financial situation. Particularly given the impact upon his personal credit file. But having considered all of the information and guidance available, I don't think NewDay need to do anything more here.

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.

In my provisional decision, I asked both parties to respond with any new information or comments they wanted me to consider.

NewDay confirmed they accept the findings within my provisional decision and have nothing further to add. Despite a follow up request from this service, Mr A hasn't responded to my provisional decision.

As I've not been provided with any additional comments or information, I have no reason to vary from my original findings. So, my final decision remains the same.

My final decision

For the reasons set out above, I don't uphold Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 11 August 2022.

Dave Morgan
Ombudsman