

The complaint

Mrs C complains that NewDay Ltd unfairly registered a default on her credit file. She says she's been unable to get a mortgage as a result.

What happened

In January 2018, Mrs C contacted NewDay about some transactions on her credit card. She said she had been told she was eligible for a free phone and had paid £3 for processing / delivery. She wasn't aware that she would be charged a monthly subscription with an online game service.

NewDay said it would place a stop on future transactions and advised Mrs C to contact the merchant to request a refund. Mrs C called NewDay back the same day and said she was expecting £73 to be refunded from the merchant.

In March 2018, Mrs C contacted NewDay about a late payment fee that had been applied to the account. It removed the fee as a gesture of goodwill. NewDay says it told Mrs C that she would need to chase a refund from the merchant as transactions on the account were made before they were put on the stop list.

NewDay says there was no further contact from Mrs C until May 2022 and she hadn't made any payments in the meantime. Her account remained in arrears, and interest and charges had been added. Mrs C's account had been terminated and a default was registered with the credit reference agencies, prior to it being sold to a debt collection agency in November 2018.

Mrs C raised a complaint with NewDay. She said she had cancelled the subscription from the beginning. She had asked NewDay to cancel and stop payments. She was concerned that NewDay might have paid again after she'd instructed it not to. She said that as a result of the default NewDay had placed on her credit file, she couldn't get a mortgage.

NewDay said it had acted in line with its terms and conditions when it passed her account to a debt collection agency and applied the default to her credit file. It acknowledged there had been some poor customer service, so it refunded the interest and fees on the account as a gesture of goodwill. However, NewDay said it was unable to remove the default from Mrs C's credit file as it was obliged to report factually correct information.

Mrs C remained unhappy, so she asked our service to consider her complaint. Our investigator looked into her concerns, but she didn't think Mrs C's complaint should be upheld. Our investigator thought it was fair for NewDay to have applied the default to Mrs C's credit file.

Mrs C disagreed with our investigator's outcome. She asked why NewDay had still paid the merchant after she'd told it that it was a scam and why she still owed £73. She said that she couldn't remember receiving any letters or statements from NewDay since she moved home in February 2018. She said her mortgage applications had been declined because NewDay had given her a bad credit record. So, her complaint has been passed to me to decide.

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.

Having done so, I've decided not to uphold Mrs C's complaint. I'll explain why.

NewDay has a responsibility to treat its customers fairly and communicate with them in a way which is clear, fair and not misleading.

According to NewDay's records, Mrs C called it in January 2018, regarding transactions of £3 and £70, that had been charged to her credit card in December 2017. NewDay has noted providing Mrs C with the merchant's contact details and adding the merchant to a stop list.

I appreciate Mrs C feels that NewDay should have refunded the payments to her account when she first disputed the transactions. However, chargebacks aren't guaranteed to be successful and a card issuer would normally want to see that the cardholder has tried to sort things out with the merchant before attempting one. So, I think it was reasonable for NewDay to have directed Mrs C to the merchant.

NewDay has noted that Mrs C called back the same day to let it know she was expecting a refund of £73 from the merchant.

NewDay says that when Mrs C called it again in February 2018, to say she had not yet received the refund, she was told to contact the merchant via email so they could confirm the refund. NewDay says it advised Mrs C it could raise a chargeback dispute if the merchant debits the account after it had been added to the stop list or it had promised a refund and not actioned it. I can see from the information Mrs C provided, that she emailed the merchant the following day. In response, the merchant told her it had already processed a refund of £70.

Mrs C contacted NewDay again in March 2018 after a late payment fee had been charged to her account. NewDay refunded the late payment fee as a gesture of goodwill. NewDay says it told Mrs C that she would need to chase her refund with the merchant as transactions were made before it was put on a stop list.

Mrs C has raised concerns that NewDay allowed the transaction of 19 January 2018 to go through. However, NewDay didn't place the merchant on the stop list until 22 January 2018, which is the date its noted Mrs C calling. Mrs C says she contacted NewDay sooner than this, but there's no indication of this in NewDay's notes and I haven't seen any other evidence to persuade me that NewDay should have placed the merchant on the stop list sooner.

Mrs C has commented that NewDay didn't inform her of the £70 the merchant refunded in May 2018. However, this is showing on her June 2018 credit card statement. So, I'm satisfied NewDay did share this information with Mrs C.

Although the merchant eventually refunded £70 to Mrs C's credit card, this wasn't enough to cover all of the transactions it had charged. The merchant had charged Mrs C a total of £143 in three transactions. This is why a balance of £73 remained on Mrs C's account, even after NewDay refunded all of the fees and interest that had been applied to it.

After the call of March 2018, Mrs C doesn't appear to have contacted NewDay again until May 2022. And, from what I can see, she didn't make any further payments to her account during this time. Mrs C was required to make a minimum payment each month, while there

was an outstanding balance on the account. So, her credit card statements show that her account was in arrears in the months that followed. Mrs C was also sent a number of notices of default and notices of sums in arrears.

In October 2018, NewDay sent Mrs C a letter informing her that it intended to register a default with credit reference agencies, unless she brought her arrears up to date within the next 28 days. The letter said: "*The default will stay on your file for six years and may make it harder for you to get credit in the future.*"

There doesn't appear to have been any payment or contact from Mrs C. So, the default was registered in late November 2018.

Mrs C says she can't remember receiving any letters or statements from NewDay since she moved home in February 2018. However, everything that was sent to Mrs C since April 2018, is addressed to where she says she moved to.

I note there is a small spelling error in the first line of the address. However, the house/flat number and post code are correct. So, on balance, I think NewDay's correspondence is likely to have been delivered to her. In any event, Mrs C was responsible for managing her account. So, I would have expected her to contact NewDay if she wasn't receiving her statements, particularly as the issue regarding the refund remained outstanding.

I'm satisfied that NewDay gave Mrs C clear information about the status of her account and what would happen if she failed to bring it up to date. It also sent her a number of letters asking her to contact it, but Mrs C didn't do so. So, I think it was fair for NewDay to have registered the default with the credit reference agencies, when it did.

I understand Mrs C had some difficulty speaking to NewDay in May 2022. She was waiting a long time for her call to be answered and wasn't called back as promised. However, NewDay refunded interest and fees on the account, totalling £102. I think this is reasonable compensation for the customer service issues she experienced. So, I don't require NewDay to do anything further.

I know my answer will be disappointing for Mrs C, but overall, I think NewDay has acted fairly and reasonably.

My final decision

For the reasons I've explained, I don't uphold Mrs C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 3 January 2023.

Anne Muscroft
Ombudsman