

The complaint

Ms O complains about NewDay Ltd recording adverse information on her credit file in relation to a credit card account.

What happened

Ms O stopped making payments towards her credit card from December 2020. Despite NewDay allowing several payment holidays, it recorded a default on Ms O's credit file at the end of March 2022.

Unhappy with NewDay's decision to register the default, Ms O made a complaint. NewDay felt it had correctly followed its procedures regarding the missed payments and rejected her complaint.

Because Ms O remained unhappy, she brought a complaint to this service. Our investigator looked into it and recommended that it should be upheld in part. They concluded that, although NewDay was entitled to register the default, its delay in doing so had caused Ms O a loss. The investigator asked NewDay to amend her credit file in relation to the account to show it as defaulting when the account was terminated in August 2021. They also asked NewDay to pay £100 as compensation for the inconvenience caused by its handling of the matter.

Neither party agreed with the investigator's findings. Ms O didn't provide a detailed explanation as to why. NewDay felt it had recorded the default in line with its collections process and given Ms O adequate notice of its intention to do so, allowing her time to manage her finances. The complaint was passed to me review afresh.

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'm upholding this complaint in part. I'll explain why.

It's not in dispute that Ms O initially missed two payments on her account. From what I can see, NewDay received no payments from Ms O after December 2020. After that time, NewDay agreed several payment holidays, for a month at first then extended by three months on two occasions.

No further payments were made to bring the account up to date and, after sending letters (to her last known address) chasing the debt, NewDay sent Ms O a default notice in July 2021. This said, among other things:

'We will share details of the status of your account with credit reference agencies which may make it harder for you to get credit in future.'

I think that was in line with the terms of the credit agreement Mrs O entered into with NewDay which said information might be disclosed to credit reference agencies if payments were missed, making it more difficult for her to borrow.

While Ms O suggests NewDay led her to believe the account wouldn't be defaulted because of the health problems she faced and had declared to it, I haven't seen evidence to support that.

Overall, I don't find that NewDay treated Ms O unfairly in recording adverse information on her credit file. It follows that I won't be asking NewDay to remove the default from her records.

That said, I question the timing of when NewDay recorded the information on Ms O's credit file. This is important as information recorded late would, in effect, adversely impact her for longer. This type of scenario's recognised by the Information Commissioner's Office (ICO) which says a default may be registered when a consumer's at least three months behind with their payments. The ICO would usually expect a default to be registered by the time the consumer's six months behind with their payments.

In the circumstances, I see no reason why NewDay shouldn't have acted in accordance with the advice and guidance of the ICO in Ms O's case. On that basis, and given Ms O first missed payments from the end of 2020, it's reasonable to think the default would have been registered by mid-2021 at the latest.

I'm aware that NewDay had agreed to several payment holidays in that time, and that it considered it was following its own collections policy. But, bearing in mind the ICO's established position and the lack of payments forthcoming, I believe it ought to have been clear long before the default was eventually registered in March 2022 that Ms O wasn't able to make her contractual payments.

As such, I believe NewDay should amend Ms O's credit file to show the account defaulted sooner than March 2022. I think a reasonable date to use in this instance would be August 2021 given the payment opportunities Ms O was provided with by then and considering that's when the account was terminated. That would mean the default marker coming off Ms O's credit file – and no longer hindering her ability to secure mainstream lending – around seven months sooner than it would otherwise have done.

Because of the actions of NewDay and their impact on Ms O, who I understand was already struggling with her health for much of the time these issues were ongoing, I think it should also pay her £100 as compensation for the distress and inconvenience caused.

Putting things right

NewDay should:

- Amend Ms O's credit file to record the default on the account as occurring no later than August 2021; and
- Pay Ms O £100 as compensation for the distress and inconvenience it's caused her.

My final decision

For the reasons given, I'm upholding this complaint in part. I require NewDay Ltd to put things right for Ms O as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms O to accept or

reject my decision before 11 July 2023.

Nimish Patel
Ombudsman