

The complaint

Miss D complains that NewDay Ltd trading as Amazon Card has unfairly applied a default to her account.

What happened

Miss D contacted her bank to claim back payments made to a subscription service that she said she hadn't agreed to. She says the subscription charges were added to her NewDay credit card even though she had closed the account. She says that she paid her credit card by direct debit but wasn't aware of the ongoing charges and her account went into arrears.

NewDay issued a final response to Miss D dated 25 June 2023 not upholding her complaint. It said that due to arrears on Miss D's account it sent her a default noticed dated 17 December 2022 which set out the payment that needed to be made by 7 January 2023 to prevent further action being taken. It said it withdrew the credit facilities to prevent further purchases being made and on 7 January 2023 it informed Miss D that her account had been passed to a debt collection agency. On 10 January 2023 it sent Miss D a letter telling her of its intention to register a default with the credit reference agencies. On 31 January 2023, NewDay says Miss D's account was sold to a third party.

Miss D wasn't satisfied with NewDay's response and referred her complaint to this service.

Our investigator didn't uphold this complaint. He noted that Miss D was sent letters before action was taken and that it was her responsibility to check her statements and pay any amounts owing.

Miss D responded to our investigator's view saying that she wasn't aware that NewDay administered her credit card, and she thought her credit card was administered by the retailer to which the subscription was being paid.

Our investigator issued a second view addressing the issue Miss D had raised. He said that on a call on 10 December 2022, it was made clear to Miss D that she was talking to NewDay and that it provided the credit card. It was suggested she contact the retailer about the subscription payments as NewDay couldn't raise a dispute until she had tried to cancel the subscription. He also noted that the credit agreement Miss D signed set out this was with NewDay. Therefore, he didn't uphold Miss D's complaint.

Miss D didn't accept our investigator's view and so her case has been passed to me, an ombudsman, to make a 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 can understand why Miss D is upset that her credit file has been affected by the issue of the subscription payments. But this complaint is against NewDay and for me to uphold this

complaint I would need to be satisfied that NewDay had done something wrong or treated Miss D unfairly.

Miss D has said that she wasn't aware that the credit card on which the subscription payments were added was provided by NewDay. I have looked at the credit agreement and this is clearly set out as being with NewDay with the retailer acting as the credit intermediary. Therefore, I accept that Mrs D should have been reasonably aware that she had entered into a credit agreement with NewDay.

NewDay has said that when Miss D was accepted for the credit card, she would have been sent an email and text advising her to register her account online. I understand that Miss D didn't do this and so she may not have been aware of the transactions on her credit card. However, Miss D set up the account and it was her responsibility to ensure she checked her statements and made the required payments (or raised any disputes in regard to the transactions).

I have listened to the call on 10 December 2022, and Miss D says she shouldn't have been charged for the subscription as she never agreed to it. She is told that she will need to try to cancel the subscription with the retailer and that NewDay can't do this and that it can't do anything further until Miss D has attempted to cancel the subscription. Miss D says that she hadn't looked at her statements and wasn't aware of the subscription charges and that she thought her account was closed. It was explained that the subscription charges have been applied for an extended period and she was then provided with the retailer's number so Miss D could contact it to cancel the subscription. Miss D queries which company she is talking to, and it is explained that she is talking to NewDay and that it is the provider of the credit card on behalf of the retailer. I can hear from the call that Miss D is confused by this, but I find that the credit agreement was clear in who the credit provider was and that the adviser also explained this to her.

Miss D was sent notification by NewDay that her account would close in October 2022 and after this date she would not be able to make transactions on her card but that she will still be responsible for making the repayments. The letter explained that the account was being replaced by a new brand and that direct debit payments would continue as set up.

Miss D was then sent a letter dated 13 December 2022 confirming that her direct debit had been cancelled. At that point the outstanding balance on her account was zero. However, following her discussion with NewDay in December 2022, she raised a direct debit indemnity claim through her bank and so payments that had been made to her credit card were reversed resulting in an outstanding balance on her account. I appreciate that Miss D may not have realised this would be the result of her indemnity claim but I do not find I can say that NewDay did anything wrong in regard to this.

NewDay sent Miss D a notice of default dated 17 December 2022 explaining the amount she needed to pay by 7 January to prevent further action being taken. It then explained what could happen if payment wasn't made. As payment wasn't received NewDay sent Miss D a letter dated 7 January 2023, saying it had terminated her account and the full balance was now due. A further letter was sent dated 10 January saying that a default would be registered if Miss D didn't make the required payment within 28 days. I note Miss D's comment that she didn't receive letters from NewDay as she was away for a period of time. But as NewDay sent letters about the status of Miss D's account and provided her with information about what was needed to prevent further action being taken, I do not find I can say that NewDay did anything wrong by taking the action it did.

I know my decision will be disappointing for Miss D and I can see that this issue has caused confusion in regard to the transactions on her account. But having looked through the

evidence I do not find I can say that NewDay was wrong to take the action it did and therefore I do not uphold this complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 3 January 2024.

Jane Archer
Ombudsman