

The complaint

Mr R complains that NewDay Ltd trading as Fluid hasn't defaulted his accounts.

What happened

In April 2019 Mr R entered into a debt management plan. Mr R thinks that NewDay should've defaulted both his accounts when he entered the debt management plan. He's unhappy that NewDay has reported an arrangement to pay on his credit file.

Mr R complained to NewDay and asked it to default both accounts and backdate he default to within 6 months of when he entered the debt management plan.

In its final response, NewDay said it wasn't upholding the complaint. It said that Mr R's accounts didn't get to the default stage because a payment arrangement was agreed, and the agreed payments had been maintained, NewDay said that if payments were kept up to date, the account wouldn't fall into arrears. NewDay said it had reported the payment arrangement to the credit reference agencies as a payment plan.

Mr R remained unhappy and brought his complaint to this service. He said he thought the accounts should have been defaulted within 3 months of him entering into the debt management plan.

Our investigator upheld the complaint. She thought the accounts should have been defaulted because in 2019 there had been missed payments for over 3 months and NewDay would've been entitled to default the account at this time. The investigator said that NewDay should apply a backdated default for both accounts for 3 months after the card was in continuous arrears in 2019.

NewDay didn't agree. It said it had a policy that it didn't apply defaults after 3 months of arrears and would only apply a default after 6 months of arrears and that this was in line with the relevant guidance.

I issued a provisional decision in which I didn't uphold the complaint. I reviewed the statements for both accounts. I could see that Mr R was in arrears on the Fluid card from January 2019 and in arrears on the Debenhams card from November 2019. Mr R was in arrears for over 3 months on both accounts. The arrears were removed when Mr R set up the payment plan.

I explained that whilst I appreciated that other lenders had taken a different approach to accounts which Mr R held with them, I could only look at the circumstances of this complaint. I said that NewDay could have defaulted the accounts after 3 months of continuous arrears in 2019 but it wasn't under any obligation to do this. So I wasn't able to say that NewDay had made an error by not defaulting the accounts.

I went on to consider whether NewDay had treated Mr R fairly and reasonably. I noted that Mr R is in a long-term debt management plan. I said I understood why Mr R would prefer the accounts to have been defaulted in 2019, because his credit file will show the payment

arrangement for much longer than if a default had been registered. I could see that NewDay was reporting a payment plan on Mr R's credit file. I wasn't persuaded that NewDay had made an error in reporting the payment plan, because it is under an obligation to report accurate information to the credit reference agencies.

I decided that NewDay hadn't made an error by not defaulting the accounts, and I wasn't persuaded that it had treated Mr R unfairly.

I invited both parties to let me have any further evidence or arguments they wished to raise before I reached a final decision.

Mr R responded and said he felt that he'd been penalised for making an arrangement to pay. He said that if he'd stopped paying NewDay the accounts would've been defaulted. He felt that because he was paying less than the minimum payment and was no longer able to use the cards, the accounts should be defaulted. Mr R said that if he'd gone bankrupt in 2019 this would have impacted him until 2025 and he didn't think it was fair that the payment plan wouldn't be removed from his credit file until 6 years after the accounts had been settled,

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've considered what Mr R has said. However, my decision hasn't changed. I'm not persuaded that NewDay has made an error by not defaulting the accounts and reporting the payment plan to the credit reference agencies.

I'm not aware of whether Mr R gave serious consideration to bankruptcy in 2019 (as he's mentioned this in his response) but as far as I'm aware, Mr R hasn't been declared bankrupt and I'm only able to look at the circumstances of what actually happened.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 8 February 2024.

Emma Davy
Ombudsman