

The complaint

Mr W complains NewDay Ltd trading as John Lewis Partnership Card instantly turned him down for a credit card. He thinks NewDay are data harvesting.

What happened

I issued a provisional decision setting out what'd happened, and what I thought about that. I've copied the relevant elements of this below, and they form part of this final decision.

As I understand it, Mr W applied for a credit card with NewDay in November 2022 and having completed the application, he says it was instantly turned down. If Mr W wanted to appeal this decision, then NewDay said he'd need to provide further evidence – such as his bank statements. Mr W says since his application, he's been bombarded by offers from different companies, and thinks NewDay have sold his data.

NewDay said when customers apply for a financial product they will, like all financial companies, require some personal information to assess the application. They said they were sorry Mr W was unhappy with this process and didn't uphold his complaint.

Mr W wasn't happy with this, so asked us to look into things. One of our Investigators did so, and overall found NewDay had acted fairly in turning down the application. Mr W didn't accept this. He said his application was turned down instantly, so there was no assessment of his circumstances. And he maintained NewDay were data harvesting which hadn't been addressed. As Mr W didn't accept our Investigators outcome, the complaint's been passed to me to decide.

What I've provisionally 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.

Turning down of Mr W's credit card application

To help me decide if NewDay have treated Mr W fairly when considering his application, we need to know the reason he was turned down. This isn't something our service can share with Mr W, as it's commercially sensitive. The rules set down by the financial regulator the Financial Conduct Authority allow us to receive information in confidence like this.

I've reviewed that information, and I'm satisfied with what it contains. In summary it does show Mr W didn't meet NewDay's criteria for them to grant him with a credit card.

I know Mr W wants the specific reason, and that's the point of this part of his complaint – but this is the very issue I can't share. I don't doubt Mr W is genuine, but the more information of this kind that's shared the more chance there is of that information being used inappropriately / fraudulently by people who aren't genuine.

I've noted Mr W's concerns about his application being turned down instantly. But, NewDay like most large companies will have automated processes which help them process applications like this – so I don't think this shows they've done anything wrong.

So, while I know Mr W will be disappointed, I'm satisfied he's fairly been turned down for the credit card – and I'm satisfied NewDay aren't required to explicitly tell him why.

Harvesting of Mr W's data

I've noted Mr W has provided a newspaper article that talks about sharing data. I need to make it clear I couldn't require NewDay to stop selling or sharing data – if that is indeed what they are doing. All I'm able to consider is his specific complaint and whether they have or haven't sold or shared his data without his permission.

NewDay have said they don't sell customer data to anyone.

I understand part of the reason Mr W says NewDay are harvesting his data to sell is because of their appeals process. When someone is turned down for a credit card with NewDay I've seen they asked Mr W for three months' worth of statements.

Having asked NewDay about this, they say they ask for the statements to check the income and outgoings of a customer.

In Mr W's circumstances, this doesn't seem unreasonable. Our service deals with irresponsible lending complaints. When making lending decisions lenders are required to carry out proportionate checks – and sometimes, we say lenders should have done more checks – such as asking for a customer's bank statements to check whether they could afford the lending. This appears to be what NewDay were doing in Mr W's case – so I've no concerns over this. And, I understand Mr W did appeal the decision, but didn't provide the information NewDay asked for.

We also asked NewDay if they sell Mr W's data – as Mr W says since applying for an account with NewDay he's been bombarded by offers from different companies.

NewDay told us they don't sell data, but in their privacy notice – the link of which I've asked our Investigator to share with Mr W when sending this provisional decision – says they do share information. This is noted at 6.1.3 in the terms for Mr W's reference.

NewDay have said Mr W applied online for the credit card and have shown me the screens he'd have to have completed in order to actually apply for the credit card. These screens include the privacy notice – so it seems NewDay made the relevant information available to Mr W about how they'd use his data.

In the circumstances, I've seen nothing to suggest NewDay have misled Mr W about what might happen to his data. That said, my remit is simply to see whether NewDay have said or done something incorrect which has had an impact on him. Whether Mr W's data has been correctly and fairly used might be something he wishes the Information Commissioner's Office (ICO) to consider. The ICO can consider a data protection complaint.

Responses to my provisional decision

Mr W replied and in summary said:

- NewDay are still contacting him with offers despite this complaint and going through data they've managed to obtain – he wants them to stop going through his grocery account and a retailer account and continually asking him to apply for a credit card
- His credit score has been negatively impacted – and he wants them to remove that impact

I've read all of Mr W's other points carefully, but I consider the above to be the crux of the complaint raised.

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 understand Mr W continues to be contacted, and it's clear that's causing him frustration. I'm sorry to hear of that. But I can only uphold the complaint if I think NewDay have done something wrong.

The privacy notice, which Mr W has received a copy of, says at section five 'What personal data do we use and why'. In this, there are three specific sections which apply to Mr W's situation - 5.2.2:

Personal data relating to your demographic (which can include information such as age, gender, place of residence, and can include socio-economic factors such as occupation, family status, or income), lifestyle, how you use your card and/or product and consumption habits for example how you use your card and/or product. We use this information to improve our card and/or products;

5.3.5:

To provide you with cards, products and services and tell you about changes to these products and services

And 5.3.6

To send you marketing in accordance with the provisions of Section 20

I mentioned before I was satisfied Mr W had been made aware of the privacy notice and had the opportunity to address this. So, in the circumstances, I don't think NewDay have done anything wrong in contacting him. What I'll do though is ask our Investigator to ask NewDay to stop sending him marketing communication. Mr W is also welcome to contact the ICO if he remains unsatisfied with their actions.

As for Mr W's credit score, he's suggested we've made him think it's been negatively impacted. I'm sorry if we've made him think that, but I'm not sure it will have been – but, even if it has, I couldn't say NewDay have done anything wrong. I'll explain.

I don't think Mr W's credit score will likely have been impacted, as all I'd expect his credit file to show is that he's had a search carried out by NewDay. They won't have reported to the credit reference agency as a 'declined application' or anything like that – all NewDay will have reported is a search. And, generally, one search won't have an impact on someone's credit score.

But, even if it did, then I can't say NewDay did anything wrong. That's because when Mr W applied for the credit card, he agreed for a credit search to be carried out. And I've already found NewDay didn't do anything wrong in processing Mr W's application.

My final decision

For the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 20 May 2024.

Jon Pearce
Ombudsman