

The complaint

Miss N complains that NewDay Ltd passed her account to a collection agency after she notified it of financial difficulties.

What happened

Miss N held an account with NewDay. On 12 April 2023 Miss N requested breathing space and to set up a payment plan on her account. NewDay added breathing space for 30 days.

On 13 May 2023 NewDay wrote to Miss N advising her that a payment of £53.35 was due by 3 June 2023. On 30 May 2023 Miss N completed an income and expenditure form in order to set up a payment plan. NewDay issued a further letter dated 7 June 2023 advising Miss N that her account had been terminated. The account was then passed to a debt collection agency.

Miss N complained to NewDay. NewDay upheld the complaint. It said it had made an error in the administration of the account by not setting up the payment arrangement, which meant that the account had been passed to a debt collection agency. NewDay awarded compensation of £100.

Miss N remained unhappy and brought her complaint to this service. She says she requested three months breathing space and was unhappy that fees and charges had been applied to her account during this period. Miss N said she'd tried to arrange a payment plan and didn't think the account should have been passed to a debt collection agency.

Our investigator upheld the complaint. They said that the compensation paid by NewDay was fair, but that it could've done more to speak to Miss B to finalise a payment plan. The investigator said that NewDay should recall the debt from the debt collection agency and allow Miss B to set up a repayment plan. In relation to fees and charges on the account, the investigator said they hadn't seen any evidence that Miss N had requested a three-month payment holiday and therefore they weren't requesting NewDay to refund these, but said that this could be reconsidered if Miss N provided further evidence.

Miss N responded to the investigators view and said she agreed with it. She said she'd asked for a three-month breathing space (as opposed to a three month payment holiday) and provided copies of the emails she'd sent.

NewDay responded and said it thought the best option was for the account to remain with the debt collection agency because a payment plan had been agreed. It said the account had been terminated on 7 June 2023 and was open for payments only. NewDay reviewed the copies of the emails Miss N said he'd sent but said these hadn't been received because the email address was incorrect.

The investigator advised Miss N that because NewDay had provided alternative means of contact such as telephone help line numbers which were included in the correspondence sent to Miss N, they didn't think it was reasonable to request NewDay to refund fees and charges.

Miss N replied and said it wasn't her fault that her emails asking for breathing space of three months hadn't been successfully sent. She said the emails had bounced back. Miss N said she'd also contacted NewDay via the App asking to set up a payment plan but hadn't received a response.

The investigator asked Miss N to provide evidence of any messages she'd sent via the App but Miss N wasn't able to provide these.

The complaint was then passed to another investigator. They said they agreed that the compensation paid by NewDay was fair, but said they disagreed with the previous investigator about the debt being recalled from the debt collection agency. The investigator said that Miss N was currently paying £3 per month to the debt collection agency, which meant it would take more than 12 months to repay the balance. The investigator said this meant that the debt would have been passed to the debt collection agency by NewDay in any event.

Miss N didn't agree. She said she'd agreed with the findings of the first investigator and the only outstanding matter was that of whether the fees and charges of £73.56 should be refunded.

I issued a provisional decision in which I addressed the three main issues as follows:

Fees and Charges

I've reviewed the emails which Miss N sent to NewDay requesting a three-month breathing space. NewDay has said that these weren't received because the email address was incorrect. Miss N has told this service that the emails bounced back. In the circumstances, I can't be certain that the emails requesting a three-month breathing space reached NewDay. Further, given that Miss N would have been aware that the emails had bounced back, I think it's reasonable to expect that she would have tried to contact NewDay by an alternative method such as the telephone helpline, details of which were provided on the correspondence sent to Miss N. I appreciate that Miss N has said that she sent messages via the App, but she hasn't been able to provide these, so again I can't be certain of what she requested and whether NewDay received this request. Taking everything into account, I don't think I can fairly require NewDay to refund fees and charges applied to the account.

Compensation

In its final response, NewDay acknowledged that it failed to make the appropriate arrangements to set up the payment plan. Since the referral of the complaint to this service, NewDay has said that the reason the payment arrangement wasn't applied to Miss N's account was because it needed to speak to her about the repayment amount.

I think NewDay made an error by not doing more to discuss the payment plan with Miss N. Although I can't say whether Miss N's payment proposal would've been acceptable to NewDay, I think Miss N has been deprived of the opportunity to set up an arrangement and avoid the debt being transferred to a debt collection agency. Taking everything into account, I don't think the compensation of £100 was sufficient and I'm recommending that this is increased to £150 total.

Debt Collection Agency

I appreciate that Miss N wants the account recalled from the debt collection agency. If this were to happen, Miss N would need to enter a repayment arrangement with NewDay. NewDay has told this service that it can only agree a repayment plan for the whole balance

to be repaid in 12 months. Based on what I know about Miss N's current payment arrangement with the debt collection agency, the balance won't be cleared within 12 months. In the circumstances, and even if the debt were recalled back to NewDay, I don't think it's likely that a suitable payment arrangement could be agreed which would repay the balance within 12 months. If Miss N is in a position to repay the balance within 12 months, then I would ask that she makes that clear in any response to this provisional decision.

I invited both parties to let me have any further comments they wished to make in response to my provisional decision.

Miss N responded and said she wasn't in contact with a debt collection agency regarding the account. She said she'd continued to pay NewDay via bank transfer. She said she accepted the additional compensation which I had awarded. Miss N said she still thought the fees and charges should be removed because she had used the App to contact NewDay about her payment difficulties. Miss N said that if the fees and charges were removed from the balance on the account, she could set up a payment plan to clear the account within 12 months.

NewDay responded and confirmed that Miss N's payments were being received directly to themselves even though the account had been passed to a debt collection agency.

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 taken account of the further comments received by both parties. Having done so, my decision on fees and charges hasn't changed. I say this because I'm not persuaded that the emails and/or messages via the App requesting three months breathing space were received by NewDay, and I think it would've been reasonable for Miss N to try and contact NewDay by an alternative method when she didn't receive a response.

In relation to compensation my decision remains that NewDay should pay total compensation of £150.

Miss N has said that she's continued to pay NewDay directly and NewDay has confirmed this. In the circumstances, I'm persuaded that the account should be recalled from the debt collection agency. NewDay must make contact with Miss N to discuss her repayment proposals.

Putting things right

To put things right, NewDay Ltd must pay further compensation of £50 to Miss N and recall the account back from the debt collection agency. It must also make contact with Miss N to discuss her repayment proposals.

My final decision

My final decision is that I uphold the complaint. NewDay Ltd must take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss N to accept or reject my decision before 30 May 2024.

Emma Davy

Ombudsman